

1 BILL NO. G-97- 11-10

2 GENERAL ORDINANCE NO. G- 16-97

3 AN ORDINANCE amending
4 the City of Fort Wayne Zoning Ordinance
(Chapter 157 of the City Code of Ordinances)

5 WHEREAS, a public hearing was held by the City Plan Commission in accordance with IC 36-7-4-604, on a
6 proposed amendment to the City Zoning Ordinance (Chapter 157, of the Fort Wayne Code of Ordinances); and

7 WHEREAS, the proposed amendment to the aforementioned Fort Wayne Code of Ordinances has been duly certified
8 by the Plan commission with a DO PASS recommendation.

9 NOW, THEREFORE, BE IT RESOLVED BY THE COMMON COUNCIL OF THE CITY OF FORT
WAYNE, INDIANA:

10 SECTION 1. That sections 157.001-157.005 (General Provisions), 157.015-157.018 (Zoning Districts), 157.030-157.040
(District Regulations), 157.090-157.092 (Nonconforming Structures and Uses), 157.105-157.118 (Off-Street Parking and
11 Loading Facilities), 157.145-157.154 (Administration and Enforcement), and 157.999 (Penalty) are hereby repealed.

12 SECTION 2. That the City of Fort Wayne Zoning Ordinance is hereby reorganized, and existing and proposed sections
numbered in accordance with the following:

13 ZONING ORDINANCE OUTLINE, TABLE OF CONTENTS, AND SECTION NUMBERS

14 GENERAL PLANNING PROVISIONS (new subchapter)

15 157.001-157.039 RESERVED (future amendment)

16 157.040-157.059

17 157.040 BOARD OF ZONING APPEALS (sections renumbered)
18 157.041 ORGANIZATION
19 157.042 PROCEDURE
20 157.043 POWERS
21 157.044 ZONING HEARING OFFICER
22 157.045-157.059 RESERVED

23 GENERAL ZONING PROVISIONS (new subchapter)

24 157.060-157.079

25 157.060 PURPOSE
26 157.061 JURISDICTION
27 157.062 CONFORMANCE WITH PROVISIONS
157.063 RESERVED
157.064 ZONING MAP AMENDMENTS
157.065-157.079 RESERVED

DIGEST SHEET

TITLE OF ORDINANCE Zoning Ordinance Amendment

DEPARTMENT REQUESTING ORDINANCE Land Use Management - C&ED

SYNOPSIS OF ORDINANCE The following sections of the Zoning Ordinance are being updated or added: Purpose, Jurisdiction, Conformance with Provisions, Zoning Map Amendments, Zoning Districts, Definitions, Contingent Uses, Special Uses, Permitted Uses, Temporary Structures & Uses, Accessory Structures & Uses, Lot Size Requirements, Yard Requirements, Lot Coverage, Residential Building Size, Height Limitations, Fences & Walls, Development Plans, Site Plan Routing Review, Screening & Buffering, Off-Street Parking, Nonconforming Structures & Uses, Administration & Enforcement

EFFECT OF PASSAGE Approval of the amendment will add sections which put into ordinance format current procedures and administrative processes; it will improve staff's ability to deal with current development trends; it will address several changes to State law and improve Zoning enforcement.

EFFECT OF NON-PASSAGE The community and staff will continue to have difficulty addressing current land use issues; the Zoning Ordinance will remain outdated in a number of areas.

MONEY INVOLVED (Direct Costs, Expenditures, Savings) N/A

(ASSIGN TO COMMITTEE) Regulations; the proposed amendment has received a DO PASS recommendation from the Plan Commission.

ZONING DISTRICTS (new subchapter)

157.080-157.099

- 157.080 PURPOSE
- 157.081 DISTRICT DESIGNATIONS
- 157.082 ZONING MAPS
- 157.083 DISTRICT CONVERSIONS
- 157.084 DISTRICT BOUNDARIES
- 157.085 INTERPRETATION OF ZONING MAPS
- 157.086-157.099 RESERVED

DISTRICT REGULATIONS (new subchapter, except for section 157.105)

157.100-157.119

- 157.100 PURPOSE
- 157.101 DEFINITIONS
- 157.102 CONTINGENT USES
- 157.103 SPECIAL USES
- 157.104 PERMITTED USES
- 157.105 HOME OCCUPATIONS (section renumbered)
- 157.106 TEMPORARY STRUCTURES AND USES
- 157.107 ACCESSORY STRUCTURES AND USES
- 157.108 LOT SIZE REQUIREMENTS
- 157.109 YARD REQUIREMENTS
- 157.110 LOT COVERAGE
- 157.111 RESIDENTIAL BUILDING SIZE
- 157.112 HEIGHT LIMITATIONS
- 157.113 FENCES AND WALLS
- 157.114-157.119 RESERVED

SITE PLAN REVIEW STANDARDS AND REQUIREMENTS (new subchapter)

157.120-157.139

- 157.120 DEVELOPMENT PLANS
- 157.121 SITE PLAN ROUTING REVIEW
- 157.122 SCREENING AND BUFFERING
- 157.123-157.139 RESERVED

PARKING REQUIREMENTS (new subchapter)

157.140-157.159

- 157.140 PURPOSE
- 157.141 GENERAL REQUIREMENTS
- 157.142 PARKING AREA IMPROVEMENT STANDARDS
- 157.143 PARKING AREA LANDSCAPING REQUIREMENTS
- 157.144 MINIMUM OFF-STREET PARKING REQUIREMENTS
- 157.145-157.159 RESERVED

FLOODPLAIN REGULATIONS (sections renumbered)

157.160-157.179

- 157.160 PURPOSE; INTENT
- 157.161 DEFINITIONS
- 157.162 PERMITTED AND PROHIBITED USES IN THE FLOODPLAIN

- 1 157.163 NONCONFORMING STRUCTURES AND USES
157.164 STANDARD OF PROTECTION
2 157.165 ADMINISTRATION
157.166 IMPROVEMENT LOCATION PERMIT
3 157.167 CERTIFICATE OF COMPLIANCE
157.168 DAMAGE PREVENTION AND FLOOD PROTECTION
4 157.169 BUILDING PROTECTION STANDARDS
157.170 SUBDIVISION AND DEVELOPMENT PLAN REQUIREMENTS
5 157.171 VARIANCES
157.172 DISCLAIMER OF LIABILITY
6 157.173-157.179 RESERVED

7
8 **RIVER GREENWAY OVERLAY DISTRICT (sections renumbered)**
157.180-157.199

- 9 157.180 ESTABLISHMENT OF DISTRICT
157.181 PURPOSE; INTENT
157.182 BOUNDARIES
10 157.183 SITE REVIEW AND APPROVAL
157.184 RIVER GREENWAY COMMITTEE; ESTABLISHED; COMPOSITION; APPOINTMENT; DUTIES AND
11 POWERS
157.185 DETERMINATION OF SIGNIFICANT IMPACT
12 157.186 DEVELOPMENT PLAN REVIEW
157.187 WRITTEN APPROVAL PREREQUISITE TO ISSUANCE OF PERMIT OR CERTIFICATE OF
13 OCCUPANCY
157.188 FINAL AUTHORITY TO PROCEED
14 157.189 AMENDMENTS TO PREVIOUSLY APPROVED PLAN
157.190 APPEALS FROM PLAN COMMISSION DECISION

16 **NONCONFORMING STRUCTURES AND USES (new subchapter)**
157.200-157.219

- 17 157.200 PURPOSE
157.201 CONTINUATION OF NONCONFORMING STRUCTURES AND USES
18 157.202 AMORTIZATION OF NON-CONFORMING STRUCTURES AND USES
157.203 NONCONFORMANCE DUE TO RECLASSIFICATION
19 157.204-157.219 RESERVED

20
21 **ADMINISTRATION AND ENFORCEMENT (new subchapter)**
157.220-157.239

- 22 157.220 PURPOSE
157.221 ZONING ENFORCEMENT OFFICER
157.222 FEES
23 157.223 IMPROVEMENT LOCATION PERMITS
157.224 CERTIFICATES OF COMPLIANCE
24 157.225 ENFORCEMENT OF PROVISIONS AND REQUIREMENTS
157.226 PENALTIES
25 157.227-157.239 RESERVED

1 **SECTION 3.** That the text of the following new subchapters and sections are hereby added to the City of Fort Wayne Zoning Ordinance.

2
3 **GENERAL ZONING PROVISIONS**

4 **§157.060 PURPOSE.**

5 The regulations, requirements, standards, provisions, and procedures in this chapter are hereby established in accordance with
6 the comprehensive plan of the City of Fort Wayne, for the purpose of:

- 7 (A) securing adequate light, air, convenience of access, and safety from fire, flood, and other danger;
8 (B) lessening or avoiding congestion in public ways;
9 (C) promoting the public health, safety, comfort, convenience, and general welfare; and
10 (D) otherwise accomplishing the purposes IC 36-7-4-600 Series, et. al., and this chapter.

11 **§157.061 JURISDICTION.**

12 This chapter along with the City Sign and Subdivision Control Ordinances (chapters 154 and 155 of City Code), shall apply
13 throughout the planning jurisdiction of the City of Fort Wayne. A map showing the boundaries of the City's planning
14 jurisdiction shall be available for public inspection in the office of the Planning staff.

15 **§157.062 CONFORMANCE WITH PROVISIONS.**

16 No structure or land shall be used, and no structure shall be erected, altered, enlarged, reconstructed, converted, or reused
17 except in conformance with the regulations, requirements, standards, provisions, and procedures in this chapter.

18 **§157.064 ZONING MAP AMENDMENTS.**

19 (A) **Purpose.** In order to carry out the purpose and intent of the City Comprehensive Plan and this chapter, comply with the
20 requirements of the applicable sections of the 600 Series-Zoning Ordinance section of the Indiana Code, and allow for
proper Plan Commission review and consideration of proposals for zoning map amendments, the following procedures,
requirements, and standards are hereby established.

21 (B) **Procedure.**

22 (1) **Pre-application discussion.** Prior to the submission of a request to change a zoning district classification (amend
23 the zoning map), the applicant or property owner is encouraged to meet with the Planning staff to discuss the
proposal. The purpose of this discussion is to:

- 24 (a) acquaint the applicant with the requirements and procedures of the rezoning process; and
25 (b) advise the applicant of potential issues relative to the request, and how to proceed with the request.

26 (2) **Submission requirements.**

- (a) All applications for zoning map amendments shall be submitted on forms provided by the Planning staff and accompanied by the required filing fee as established by the Plan Commission. In the case of a property owner initiated proposal, the application must be signed by the current owners of at least 50% of the land included in the request. The applicant shall also submit a boundary survey and legal description (or other acceptable site plan) with the request. All applications shall be accepted and processed in accordance with the Plan Commission's established calendar, procedures, and rules.
- (b) The Plan Commission may also initiate a rezoning proposal, in accordance with IC 36-7-4-602(c), and the Commission's rules.
- (c) The Common Council of the City of Fort Wayne may also initiate a rezoning proposal, in accordance with IC 36-7-4-602(c), and direct the Plan Commission and Planning staff to prepare it.

(3) **Plan Commission review and recommendation.**

- (a) **Public Hearing.** All proposed zoning map amendment requests shall be reviewed by the Plan Commission at a scheduled public hearing. The Commission shall establish hearing procedures by rule.
 - (b) **Recommendation of Plan Commission.** After a public hearing on the request has been held, the Plan Commission may make a recommendation on the proposed zoning map amendment at its next scheduled business meeting. The Commission may make a favorable recommendation, an unfavorable recommendation, or no recommendation on the request. The Commission shall enter written findings setting forth the reasons for its action. The Commission may defer action on a proposed zoning map amendment, if it needs additional information or additional time for consideration of the request. If the Plan Commission permits or requires a written commitment in conjunction with its review of a proposed zoning map amendment, as set forth in division (C) below, the Commission may defer action on the request until the commitment has been executed. Any action by the Commission shall be taken in accordance with IC 36-7-4-605 and the Commission's rules. In considering a zoning map amendment request, the Plan Commission and Common Council shall pay reasonable regard to the items and issues set forth in IC 36-7-4-603.
 - (c) **Notice of recommendation.** Notice of the Plan Commission's recommendation on a proposed zoning map amendment shall be provided to the applicant and other applicable parties as established by rule.
 - (d) **Certification of recommendation.** The Plan Commission's recommendation shall be certified to the Common Council, in accordance with IC 36-7-4-605 and IC 36-7-4-608.
- (4) **Common Council consideration of Plan Commission recommendation.** The Common Council shall consider and take action on the Plan Commission's recommendation in accordance with its rules and procedures, and in conformance with IC 36-7-4-608.
- (5) **Veto by Mayor.** Any proposed zoning map amendment shall be subject to veto by the Mayor as set forth in IC 36-7-4-609 and City Code.

(C) **Written commitments.**

- (1) **Authorization.** As part of its review of and recommendation on a proposed zoning map amendment, the Plan Commission may permit or require the owner or applicant to make written commitments concerning the use or development of that property, in accordance with IC 36-7-4-615 and the Commission's rules.
- (2) **Procedure.** The Plan Commission may permit or require written commitments in conjunction with its review of a proposed zoning map amendment. Written commitments may address or include the following issues:
 - (a) limiting the uses which would be permitted on the property;

- 1 (b) placing restrictions on the size, location, height, or similar aspects of a proposed structure or structures in a
2 proposed development or future development proposal;
- 3 (c) establishing standards or requirements relative to screening, buffering, landscaping, parking, or other similar
4 site design aspects of a proposed development or future development proposal;
- 5 (d) limiting off-site impacts of a proposed structure or development or future development proposal, relative to
6 noise, site lighting, signage, or similar issues; and
- 7 (e) similar use, building layout, or site design issues.
- 8 (3) **Form.** Written commitments shall be prepared and submitted by the owner or applicant, and shall be in a form
9 acceptable to the Commission's legal staff.
- 10 (4) **Modification and termination.** A written commitment made under this section shall automatically terminate if,
11 after the adoption of the commitment and approval of the proposed zoning map amendment, the zoning
12 classification of the applicable lot or development parcel is changed at some future point. Otherwise, written
13 commitments made under this section shall only be modified or terminated by the Plan Commission. Prior to the
14 Commission considering a request to modify or terminate a commitment previously approved under this section, the
15 Commission shall hold a public hearing on the request. The procedure for the public hearing, including required
16 notice, shall be as set forth in the Commission's rules.
- 17 (5) **Recordation.** Written commitments made under this section shall be executed by the owner or applicant, approved
18 by the Plan Commission, and recorded in the Allen County Recorder's office, in accordance with the Commission's
19 rules. Unless modified or terminated by the Plan Commission or automatically terminated, a recorded commitment
20 made under this section is binding on:
- 21 (a) the owner of the parcel;
- 22 (b) any subsequent owner of the parcel; and
- 23 (c) any person(s) who acquires an interest in the parcel.
- 24 (6) **Enforcement.** Written commitments made under this section shall include provisions for the enforcement of the
25 commitment. The commitment shall designate the Plan Commission as a party entitled to enforce the commitment.
26 Other appropriate parties, including but not limited to registered neighborhood associations, may also be designated
27 as a party entitled to enforce the commitment. A violation of a written commitment shall be considered a violation
of this chapter.
- (7) **Miscellaneous provisions.**
- (a) By permitting or requiring a written commitment, the Plan Commission does not become obligated to
recommend approval of the proposed zoning map amendment. The Common Council shall likewise be under
no obligation to approve the request.
- (b) By permitting or requiring a written commitment, the Plan Commission shall not be obligated to grant any
requested waiver of an Ordinance standard or requirement.
- (c) If a written commitment is executed in conjunction with a proposed zoning map amendment, and the proposal
is denied by the Common Council and/or the Mayor, the written commitment shall not be recorded.
- (d) This section does not affect the validity of any covenant, easement, equitable servitude, or other land use
restriction created in accordance with the law.

ZONING DISTRICTS

§157.080 PURPOSE.

(A) The purpose of this section is to establish standards, designations, and requirements for the following:

- (1) zoning maps;
- (2) zoning district designations;
- (3) zoning district boundaries;
- (4) zoning district conversions; and
- (5) zoning map determinations and interpretations.

§157.081 DISTRICT DESIGNATIONS.

For the purposes of this chapter, and chapters 154 and 155 of the City Code, all of the area under the planning jurisdiction of the Fort Wayne City Plan Commission is hereby divided and classified into the zoning districts designated in the following table.

DISTRICT DESIGNATIONS	
AR	Low Intensity Residential
R1	Single Family Residential
R2	Attached Single Family and Two Family Residential
R3	Multiple Family Residential
RP	Planned Residential
MR1	Manufactured Residential Subdivision
MR2	Manufactured Home Park
CM1	Professional Offices and Personal Services
CM2	Limited Retail and Commercial
CM3	General Commercial
CM4	Intensive Commercial
CM5	Central Business District
SC1	Neighborhood Shopping Center
SC2	Community Shopping Center
SC3	Metropolitan Shopping Center
SC4	Regional Shopping Center
IN1	Limited Industrial
IN2	General Industrial
IN3	Heavy Industrial

1 **§157.082 ZONING MAPS.**

2 The zoning districts designated above, and the boundaries of the respective zoning districts, shall be as shown on the City
3 zoning maps on file in the office of the Planning staff. The City zoning maps are hereby incorporated as part of this chapter,
4 and chapters 154 and 155 of the City Code.

5 **§157.083 DISTRICT CONVERSIONS.**

6 (A) Any land which may be included in or added to the planning jurisdiction of the Plan Commission shall automatically be
7 converted from the existing Allen County zoning classification into the corresponding City zoning district as listed in the
8 following table.

County District Designation		City District Designation
AE	Exclusive Agricultural	AR
A1	Agricultural	AR
A2	Floodplain	Adjacent zoning district
A3	Estates	AR
RS1	Suburban Residential	R1
RS2	Two Family Residential	R2
RS3	Multiple-Family	R3
MH	Manufactured Housing	MR2
RSP1	Planned Single Family	R1
RSP2	Planned Two Family	R2
RSP3	Planned Multiple Family	RP
RSPMH	Planned Manufactured Housing	MR1
C1A	Professional and Personal Services	CM1
C1A(P)	Planned Professional and Personal Services	CM1
C1B	Business and Technology	CM1
C1B(P)	Planned Business and Technology	CM1
C1	Limited Commercial	CM2
C1(P)	Planned Limited Commercial	CM2
C2A	Neighborhood Shopping Center	SC1
C2B	Community Shopping Center	SC2
C2C	Metropolitan Shopping Center	SC3
C2D	Regional Shopping Center	SC4
C3	General Commercial	CM3
C3(P)	Planned General Commercial	CM3
C4	Roadside Commercial	CM4
C4(P)	Planned Roadside Commercial	CM4
C5	Commercial Interchange	CM2
C6	Drive-In Facility	CM3
I1	Light Industrial	IN1
I1(P)	Planned Light Industrial	IN1
I2	General Industrial	IN2

I2(P)	Planned General Industrial	IN2
I3	Heavy Industrial	IN3
I3(P)	Planned Heavy Industrial	IN3
I4	Industrial Park	IN2

(B) If no specific zoning conversion is noted in this chapter, the Plan Commission shall determine the appropriate zoning district conversion based on the Comprehensive Plan, existing or proposed development in the area, and recommendation of the Planning staff.

§157.084 DISTRICT BOUNDARIES.

Zoning district boundary lines shall be considered to be property lines; the centerline of any alley, street, or road right-of-way; or the centerline of any ditch, drain, river, stream, or other watercourse unless the zoning maps indicate otherwise. However, for the purpose of establishing minimum distances from residential zoning districts as required in this chapter, the measurement shall always be taken from property line to property line, as opposed to being taken from the center line or other point within a public street or alley right-of-way.

§157.085 INTERPRETATION OF ZONING MAPS.

(A) If there is uncertainty or conflict with regard to the location of a zoning district boundary, a Zoning Enforcement Officer shall determine the correct boundary location. The determination shall be made in accordance with the following standards and guidelines.

(1) Zoning district boundary lines are to follow the survey lines or the legal description submitted as a part of an approved zoning map amendment with the following exceptions:

(a) if no survey or legal description exists then the zoning district boundary lines are intended to follow property lines; the centerline of any alley, street, or road right-of-way; or the centerline of any ditch, drain, river, stream, or other watercourse; and

(b) if a zoning district boundary line divides a lot, the location of the boundary line shall be determined by measurement, based on the scale of the zoning map.

(2) A Zoning Enforcement Officer may also consider existing or previous land use(s) on a property in making such a determination.

DISTRICT REGULATIONS

§157.100 PURPOSE.

The purpose of this subchapter is to carry out the general purpose and intent of the Zoning Ordinance, and in doing so to:

- (A) establish uses that the Board of Zoning Appeals may permit as contingent uses and special uses, along with the zoning districts where special uses will be allowed;
- (B) set forth the uses permitted in the City's residential, commercial, and industrial districts;
- (C) establish other permitted and prohibited land uses;
- (D) establish minimum standards for lot areas and sizes, yard requirements, and residential building sizes;
- (E) establish maximum building and/or structure heights and maximum residential lot coverage standards;
- (F) establish standards for accessory construction such as garages, sheds, fences, and similar structures and uses; and
- (G) define terms used in this chapter.

§157.101 DEFINITIONS.

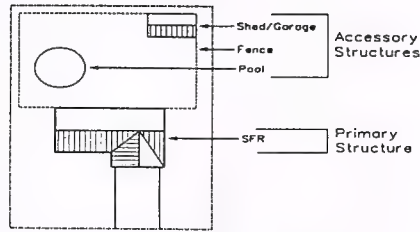
For the purpose of this chapter, the following definitions shall apply unless the context clearly indicates or requires a different meaning.

ACCESSORY STRUCTURE, NONRESIDENTIAL. A structure or combination of structures that:

- (1) are located on the same lot, tract, or development parcel as the primary nonresidential building;
- (2) are clearly incidental to and customarily found in connection with a primary building or use; and
- (3) are subordinate to and serving a primary building or use.

ACCESSORY STRUCTURE, RESIDENTIAL. A structure or combination of structures that:

- (1) are located on the same lot, tract, or development parcel as the primary residential building;
- (2) are clearly incidental to and customarily found in connection with a primary building or use;
- (3) are subordinate to and serving a primary building or use;
- (4) contribute to the comfort, convenience or necessity of the occupants in the primary building or use; and
- (5) do not exceed the total gross square footage of the primary building or use, and comply with the definition of "residential garage".



Accessory and Primary Structures

ACCESSORY USE. A use that:

- (1) is located on the same lot, tract, or development parcel as the primary building or use;
- (2) is clearly incidental to and customarily found in connection with a primary building or use;
- (3) is subordinate to and serves a primary building or use; and
- (4) contributes to the convenience or necessity of the occupants of the primary building or use.

ADULT CABARET. An establishment which features any of the following: topless dancers and/or bottomless dancers, go-go dancers, strippers, male and/or female impersonators or similar entertainers; or topless and/or bottomless wait persons or employees or any other form of nude or partially nude service or entertainment.

ADULT CARE CENTER. A building, other than the operator's primary place of residence, where adults receive day care from a provider:

- (1) while unattended by a relative, legal guardian, or custodian;
- (2) for regular compensation; and
- (3) for more than four (4) hours but less than twenty-four (24) hours in each of ten (10) consecutive days per year, excluding intervening Saturdays, Sundays and holidays.

It is intended that adult care centers be classified as commercial uses, and be located in commercial zoning districts.

ADULT CARE HOME. A residential structure, which is the primary residence of the adult care provider, in which more than six (6) but less than twelve (12) adults not related to the provider receive day care for regular compensation.

ADULT MOTION PICTURE THEATER. Any portion of an enclosed building or structure used for presenting material distinguished or characterized by an emphasis on matter depicting, describing, or relating to sexual activities or anatomical genital areas.

ADULT RETAIL USE. An establishment having 35% or more of its stock in trade devoted to books, magazines, publications, tapes, films and/or other items that are distinguished or characterized by an emphasis on matter depicting, describing, or relating to sexual activities or anatomical genital areas.

ADULT USE. An adult cabaret, adult motion picture theater, or other adult retail use.

AGRICULTURAL LIVESTOCK OPERATION. An agricultural operation where domestic farm animals are kept for use as part of a farm or raised for sale.

1 **AGRICULTURAL USE.** The use of a tract of land for normal agricultural activities, including farming and dairy farming,
2 pasturage, agriculture, horticulture, floriculture, viticulture, and animal and poultry husbandry.

3 **AGRONOMIC CROP PRODUCTION.** The use of a tract of land of at least 10 acres in size for field crop production,
4 excluding horticultural/specialty crops as defined herein.

5 **AIRPORT, (PUBLIC and PRIVATE).** Any area of land used for the landing and take-off of aircraft, including all accessory
6 structures and uses.

7 **ALLEY.** A right-of-way other than a street, road, crosswalk or easement, designed for the special accommodation of the
8 property it reaches.

9 **ANIMAL KENNEL.** An establishment licensed to operate a facility housing dogs, cats, or other household pets where
10 breeding, boarding or grooming of household pets is conducted as a business.

11 **ANTIQUE SHOP.** A building or structure used for the sale of antique furniture, furnishings, or similar items.

12 **ASSISTED LIVING FACILITY.** A residential establishment or institution other than a hospital or nursing home which
13 provides living accommodations and medical services primarily to individuals 55 years of age or over and to individuals who,
14 due to illness or disability, require care similar to that provided to persons who are 55 years or over. Services like
15 transportation, housekeeping, dietary supervision, and recreational activities may also be offered.

16 **AUTOMOBILE BODY SHOP.** A facility which provides collision repair services, including body frame straightening,
17 replacement of damaged parts and painting.

18 **AUTOMOBILE DETAILING.** A facility which provides automotive-related services such as applying paint protectors,
19 exterior cleaning and polishing as well as installation of after market accessories such as tinting, auto alarms, spoilers,
20 sunroofs, headlight covers, and similar items. However, engine degreasing or similar automobile cleaning services shall not be
21 included under this definition.

22 **AUTOMOBILE MAINTENANCE FACILITY (QUICK SERVICE).** A facility which provides engine tune-ups and
23 servicing of brakes, air conditioning, exhaust systems, oil change or lubrication; wheel alignment or balancing; or similar
24 servicing, rebuilding or repairs that normally do not require significant disassembly of automobiles, or overnight storage of
25 automobiles.

26 **AUTOMOBILE REPAIR.** A facility which provides general repair, rebuilding or reconstruction of engines, motor vehicles
27 or trailers, collision services including body , frame, or fender straightening or repair, overall painting or paint shop, steam
cleaning or detailing.

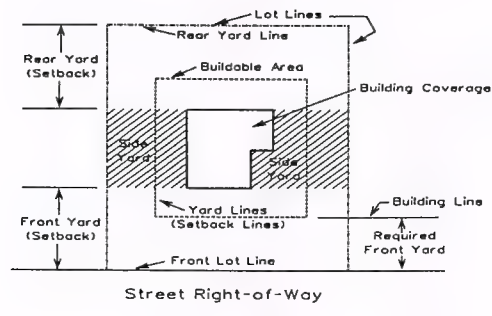
BED AND BREAKFAST ESTABLISHMENT. A house, or portion thereof, where short-term lodging rooms with or
without meals are provided for compensation. The operator(s) shall live on the premises.

BOARD. The Board of Zoning Appeals of the City of Fort Wayne.

BUILDING. A structure having a roof supported by columns or walls designed, built or used for the enclosure, shelter or
protection of persons, animals, or property.

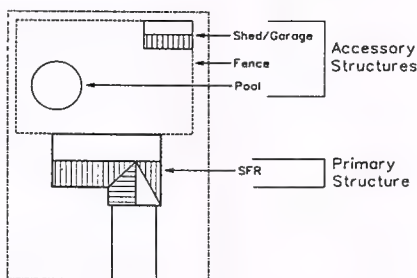
BUILDING, DETACHED. A building having no structural connection with another building.

BUILDING LINE. The line nearest the front of and across a lot establishing the minimum open space to be provided between
the front line of a building or structure and the street right-of-way line.



BUILDING, NONCONFORMING. A legally existing building which fails to comply with the regulations set forth in this chapter applicable to the district in which such building is located.

BUILDING, PRIMARY. A building constituting the primary use of a lot.



Accessory and Primary Structures

BUSINESS OR TRADE SCHOOL. A secondary school which offers instruction in business, trade, or similar skills.

CAMP GROUND. Any area or tract of land used or rented for occupancy by campers using tents for periods not to exceed two weeks.

CEMETERY. Land used for burial of the dead and dedicated for related purposes, including crematories, mausoleums and mortuaries when operated in conjunction with and within the boundaries of a cemetery.

CENTRAL BUSINESS DISTRICT. An area around the downtown portion of the City of Fort Wayne allowing for higher intensity residential uses as well as commercial, office, personal services, governmental, and similar uses intended to serve the community and the area surrounding the City. As used in this chapter the "C.B.D." shall be defined as that area generally bounded by the Conrail/Norfolk Southern railroad right-of-way (south of Baker Street) to the south, Clay Street to the east, Van Buren Street to the west, and the St. Mary's River to the north.

CERTIFICATE OF COMPLIANCE. A certificate issued by a Zoning Enforcement Officer stating that the occupancy and use of land or a building or structure referred to therein complies with the provisions of this chapter.

CHILD CARE. A service that provides for the care, health, safety, supervision and/or guidance of a child's social, emotional, and educational growth, on a regular basis, in a place other than the child's own home.

The following uses shall not be considered as child care under the terms of this chapter:

- (1) a program for children operated by the department of education or a public or private school;
- (2) a nonresidential program that provides child care for less than four (4) hours a day;
- (3) a recreational program for children that operates for not more than ninety (90) days in a calendar year;
- (4) a program whose primary purpose is to provide social, recreational, or religious activity for school age children such as scouting, boys club, girls club, sports or the arts; and
- (5) child care where the provider cares for fewer than six (6) children, not including children for whom the provider is a parent, stepparent, guardian, custodian, or other relative.

CHILD CARE CENTER. A building, other than the operator's primary place of residence, where children receive child care from a provider:

- (1) while unattended by a parent, legal guardian, or custodian;
- (2) for regular compensation; and
- (3) for more than four (4) hours but less than twenty-four (24) hours in each of ten (10) consecutive days per year, excluding intervening Saturdays, Sundays and holidays.

The child care provider must hold a valid license from the State of Indiana. It is intended that child care centers be classified as commercial uses, and be located in commercial zoning districts.

CHILD CARE HOME. A residential structure, which is the primary residence of the child care provider, in which at least six (6) children (not including the children for whom the provider is a parent, stepparent, guardian, custodian, or other relative) at any time receive child care from a provider:

- (1) while unattended by a parent, legal guardian, or custodian;
- (2) for compensation; and
- (3) for more than four (4) hours but less than twenty-four (24) hours in each of ten (10) consecutive days per year, excluding intervening Saturdays, Sundays and holidays.

The child care provider must hold a valid license from the State of Indiana. This term includes a Class I Child Care Home and a Class II Child Care Home which are defined as follows:

- (1) **Class I Child Care Home.** A child care home that serves up to twelve (12) children at any time. The children may be at the home on either a part-time or full-time basis; and
- (2) **Class II Child Care Home.** A child care home that serves more than twelve (12) but not more than sixteen (16) children at any time. The children may be at the home on either a part-time or full-time basis.

COMMERCIAL COMMUNICATIONS TOWER OR DISH. A structure designed for transmitting or receiving radio, television, or telephone communications for commercial purposes, excluding amateur radio antennas, residential satellite dishes and antennas, or similar residential structures or facilities.

COMMISSION. The Plan Commission of the City of Fort Wayne.

COMPREHENSIVE PLAN. The complete plan, or any parts of the master plan for the planning jurisdiction of the City of Fort Wayne, as prepared and adopted in accordance with the 500 series of IC 36-7-4.

1 **CONFINED LIVESTOCK FEEDING OPERATION.** The feeding of livestock, poultry, and/or small animals for
commercial purposes usually in lots, pens, ponds, sheds or buildings where food is supplied primarily by means other than
2 grazing, foraging, or other natural means.

3 **CONVALESCENT HOME** (See "Nursing Home").

4 **CORRECTIONAL INSTITUTION.** A place of confinement for persons who have broken the law, are awaiting trial, and/or
have been convicted of criminal offenses.

5 **COUNTRY CLUB.** An establishment typically associated with a golf course which is intended as a place of social and
6 recreational gatherings for members of a private club.

7 **DAIRY FARMING OPERATION.** An agricultural operation on a tract of land at least 20 acres in size, which produces milk
and milk products.

8 **DANCE HALL.** An enclosed structure used for dancing or similar social gatherings. Any use which falls under the definition
9 of "adult cabaret" shall not be included under this definition.

10 **DAY CARE (ADULT or CHILD).** A service that provides for the care, health, safety, and supervision of an individual, not
related to the provider, on a regular basis, in a residential structure other than the individual's own home. The provision of day
11 care shall be a permitted use in all residential zoning districts if the following conditions are met:

- 12** (1) the home must be the primary residence of the day care provider; and
- 13** (2) services shall be provided for fewer than six (6) adults or children not related to the provider; and
- 14** (3) care is provided for less than 24 hours per day.

15 **DEVELOPMENTAL DISABILITY.** A severe, chronic disability of an individual that:

- 16** (1) is attributable to a mental or physical impairment, or a combination of mental and physical impairment (other than a
sole diagnosis of mental illness);
- 17** (2) is manifested before the individual is 22 years of age;
- 18** (3) is likely to continue indefinitely;
- 19** (4) reflects the individual's need for a combination and sequence of special, interdisciplinary, or generic care,
treatment, or other services that are of lifelong or extended duration and are individually planned and coordinated;
20 and
- 21** (5) results in substantial limitation in at least three of the following:
 - 22** (a) self care;
 - 23** (b) receptive and expressive language;
 - 24** (c) learning;
 - 25** (d) mobility;
 - 26** (e) self-direction;
 - 27**

(f) capacity for independent living; and

(g) economic self sufficiency.

DEVELOPMENTALLY DISABLED INDIVIDUAL. An individual who has a developmental disability.

DOCTOR/DENTIST OFFICE. The private offices of not more than two (2) physicians, dentists, or similar professionals, where persons are examined or treated on an outpatient basis only. Laboratory tests shall be permitted as an accessory use.

DOMESTIC FARM ANIMALS. Cattle, calves, horses, mules, swine, sheep, goats, poultry or other similar birds and animals.

DWELLING, ATTACHED SINGLE FAMILY. A single residential building consisting of two single family dwellings on two individual lots, attached on a common lot line, intended for occupancy by one household per unit.

DWELLING, MULTIPLE FAMILY. A structure or portion of a structure used for occupancy by three (3) or more households living independently. This definition shall include an attached single family structure which contains three (3) or more units.

DWELLING, SINGLE FAMILY. A residential structure used for occupancy by one household.

DWELLING, TWO FAMILY. A detached residential structure, under single ownership, used for occupancy by two (2) households living independently.

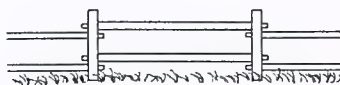
DWELLING UNIT. One or more rooms, designed, occupied, or intended for occupancy as a separate living quarter, with cooking, sleeping, and sanitary facilities provided within the dwelling unit for the exclusive use of a single family maintaining a household.

EDUCATIONAL INSTITUTION. A public, parochial, private, or nonprofit pre-school, primary or secondary school, junior college, college or university other than a trade or business school. Such institutions may include living quarters, dining halls, restaurants, recreational amenities, heating plants, and other accessory facilities for students, teachers and employees.

FAMILY. One or more persons living as a single housekeeping unit, as distinguished from a group occupying a hotel, club, nursing home, fraternity or sorority house.

FENCE or WALL. A free-standing, vertical barrier, constructed of any material other than vegetation, resting on or partially buried in the ground and rising above ground level, which supports no load other than its own weight, and is used for confinement, enclosure, partition, privacy, protection, or screening.

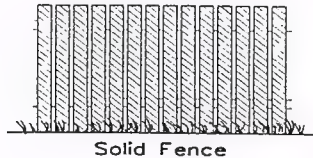
FENCE, OPEN. A fence which is less than 50% opaque when viewed perpendicularly to its vertical surface.



Open Fence

FENCE, PRIVACY. A solid fence erected or constructed to prevent views across the fence line.

FENCE, SOLID. A fence that is at least 85% opaque when viewed perpendicularly to its vertical surface.



FRATERNITY OR SORORITY HOUSE. A building, rented, occupied or owned by a national or local chapter of an organized college fraternity or sorority which is officially recognized by a college, university, or other educational institution.

FUNERAL HOME (MORTUARY). A building used for human funeral services. The building may contain space and facilities for:

- (1) embalming, cremation and the performance of other services used in preparation of the dead for burial;
- (2) the performance of autopsies and other similar surgical procedures;
- (3) the storage of caskets, funeral urns, and other related funeral supplies;
- (4) the storage of funeral vehicles; and
- (5) a funeral chapel.

GARAGE, RESIDENTIAL. A detached accessory structure or portion of a primary building used for the storage of motor vehicles. The square footage of a garage and all other accessory structures shall not exceed the ground floor square footage of the primary building for a one-story structure and 1.5 times the ground floor square footage for a structure over one-story in height. In either case, the square footage of any attached garage or attached accessory structure shall be excluded from the ground floor square footage total.

GARAGE SALE (see "Yard Sale").

GROSS FLOOR AREA. The total area of a building measured by taking the outside dimensions of the building at each floor level intended for occupancy or storage, not including any uncovered or unenclosed porches, patios, or decks.

GROUP RESIDENTIAL FACILITY. A residential facility for a group of individuals (who are not mentally ill or developmentally disabled) having full or part-time supervisory staff providing care, education, and participation in community activities, living in a district authorizing residential uses. A retirement facility shall not be included under this definition.

HANDICAPPED RAMP. A ramp or similar structure which provides wheelchair or similar access to a building.

HEDGE. A linear arrangement of plants grown closely together to create the effect of a solid, continuous wall which divides one space from another.

1 **HEIGHT, BUILDING.** The vertical distance as measured from the established grade to the highest point of the roof or
2 structure.

3 **HAZARDOUS WASTE.** Solid waste or a combination of solid wastes that, because of quantity, concentration, or physical,
4 chemical, or infectious characteristics, may:

- 5 (1) cause or significantly contribute to an increase in mortality or increase in serious irreversible or incapacitating
6 reversible illness; or
- 7 (2) pose a substantial present or potential hazard when improperly treated, stored, transported, disposed of, or otherwise
8 managed.

9 **HAZARDOUS WASTE DISPOSAL AREA.** The outermost perimeter of the area within a hazardous waste disposal facility
10 that is permitted to receive hazardous waste for disposal.

11 **HAZARDOUS WASTE TREATMENT, STORAGE AND/OR DISPOSAL FACILITY.** A solid waste land disposal
12 facility designed to treat, store and/or dispose of hazardous waste regulated by 329 IAC 3.1 or any subsequent applicable
13 revisions. The facility shall be constructed and operated in accordance with a permit issued by the appropriate government
14 agency authorized by or under the Resource Conservation and Recovery Act (40 CFR 260 - 40 CFR 270, 42 U.S.C. 6901, et
15 seq., and IC 13-7-8.5).

16 **HELIPORT.** Any landing area used for the landing and taking off of helicopters, including all necessary passenger and cargo
17 facilities, fueling, and emergency service facilities.

18 **HISTORIC DISTRICT (or property eligible for historic designation).** Those properties that have been designated or listed
19 in the Cultural Resources Survey as maintained by the Historic Preservation Review Board, and on file in the offices of
20 Community and Economic Development.

21 **HOME BASED BUSINESS.** An accessory use of a single family or two family residential structure which does not meet the
22 definition of a home occupation, but complies with the requirements of §157.103(L). A home-based business would consist of
23 service oriented uses and typically be more intense than a home occupation, due to factors such as intensity of use or clients
24 coming to the residence.

25 **HOME OCCUPATION.** An accessory use of a single family, two family or multiple family dwelling unit which complies
26 with the requirements of §157.105.

27 **HOME OFFICE.** An accessory use of a residential dwelling unit, where business and/or office activities are conducted.
Typically the office would be an ancillary use for a primary business or office use located elsewhere.

HOME WORKSHOP. A use conducted for the generation of revenue entirely within a dwelling, or in an accessory structure
located on the same lot or tract as a dwelling, which complies with the requirements of §157.103(M). The use must: be clearly
incidental and secondary to the use of the property for residential purposes; not change the character of the structure or area; or
have any exterior evidence of the workshop. Home workshops are intended to be limited to low intensity uses that produce or
repair a product, but can be operated in such a way that they do not adversely affect adjacent properties.

HORTICULTURAL/SPECIALTY CROP PRODUCTION. An agricultural operation which may include, but not be
limited to, the production of the following: fruit and/or nut trees, grapes, strawberries, blueberries, blackberries, and similar
horticultural crops as well as herbal, spice, and medicinal plant production.

HOUSEHOLD PET BREEDING (MAJOR) OPERATION. An accessory use to a permitted single family residential use,
in accordance with the applicable provisions of chapter 91 of City Code. A pet breeding operation operated under this
definition shall be limited to no more than 2 litters per household in any 12 month period.

1 **HOTEL or MOTEL.** A structure or portion thereof in which more than five guest rooms are used to provide or offer
temporary accommodations for transient guests.

2 **IMPROVEMENT LOCATION PERMIT.** A permit issued by a Zoning Enforcement Officer stating that the proposed
3 erection, construction, enlargement or moving of the building or structure referred to therein complies with the provisions of
this chapter.

4 **INTEGRAL CHASSIS.** A frame or structure utilizing metal I-beams, necessary for the transportation of a Type II or III
5 manufactured dwelling unit as defined here, and for the support of the dwelling unit once it is placed on a foundation or other
means of support.

6 **JUNK and SALVAGE.** Scrap materials, including but not limited to the following:

- 7 (1) automobile or machinery equipment or parts, including used automobile tires;
- 8 (2) cloth and clothing;
- 9 (3) manufactured clay and porcelain products;
- 10 (4) manufactured plastic products;
- 11 (5) manufactured rubber products;
- 12 (6) paper and paper products;
- 13 (7) recyclable products of all kinds;
- 14 (8) scrap metal;
- 15 (9) wood and wood products; and
- 16 (10) wrecked and/or dismantled automobiles and machinery.

17 **JUNK and SALVAGE YARD.** A lot, tract, development parcel, structure, or business operation which is primarily used for
18 storing, processing, selling, or dismantling junk and salvage. This shall include but not be limited to scrap metal processing
yards and business operations where the primary use is the storage of wrecked, junked, dismantled, or inoperable vehicles. A
19 business operation conducted and contained entirely within an enclosed building shall not be considered a junk and salvage
yard. However, the storage of used tires in an enclosed building shall be considered a junk and salvage yard.

20 **LANDSCAPE BUFFER.** A landscaped area intended to separate and partially obstruct the view of two adjacent land uses or
21 properties from one another.

22 **LANDSCAPE PLANTING AREA.** An area designed for landscape plantings, which meets all applicable width and/or
square footage requirements as set forth in this chapter.

23 **LANDSCAPE SCREEN.** The method by which a view onto one site from another site is shielded, concealed, or hidden.
24 Screening techniques include fences, walls, hedges, mounding, or other features.

25 **LIGHT EQUIPMENT RENTAL.** The temporary leasing of tools, materials, and/or construction equipment, excluding
26 equipment used for excavation, grading, or similar tasks or processes.

LIVESTOCK OPERATION, HIGH INTENSITY. An agricultural operation of at least five (5) acres in size where domestic animals are kept for use as part of a farm or raised for sale, where the number of animals exceed the maximum permitted as part of a "low intensity livestock operation".

LIVESTOCK OPERATION, LOW INTENSITY. An agricultural operation of at least five (5) acres in size where domestic farm animals, excluding swine, are kept for use as part of a farm or raised for sale. The maximum numbers of animals which shall be permitted per acre of pasture as part of such an operation shall be as follows:

NUMBER AND TYPE OF LIVESTOCK PERMITTED PER ACRE	
Type of livestock	Number permitted (per acre)
Beef or dairy cow	2
Veal calf	6
Sheep	10
Horse	3
Turkeys, ducks, geese, and or laying hens	100
Limits for livestock not specifically noted shall be determined by a Zoning Enforcement Officer	

LOT. A parcel, tract or area of land. It may be a single parcel separately described in a deed or plat which is recorded in the office of the County Recorder; it may be a part of a single parcel described in a deed or plat which is recorded in the office of the County Recorder, provided the part to be used is adequate in size to meet all yard requirements of this chapter; or it may include parts of a combination of such parcels when adjacent to one another and used as one. In determining lot area and boundary lines, no part thereof within the limits of the street or any private access serving more than one main building shall be included.

LOT, CORNER. A lot at the junction of and abutting two or more intersecting streets.

LOT, FRONT (NONRESIDENTIAL). That part of an interior or through lot which abuts a street. On a corner lot, a Zoning Enforcement officer shall determine the front of the lot, based on the following:

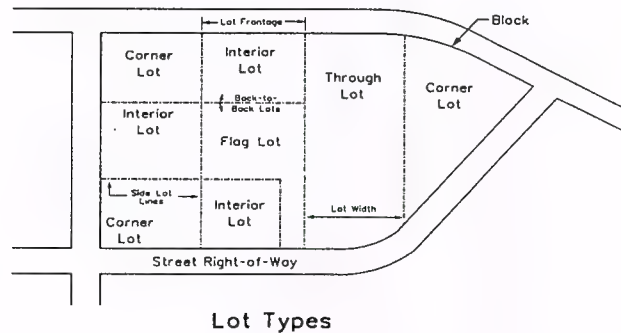
- (1) the location, setbacks, and orientation of existing structure(s);
- (2) the size and functional usage of the existing front, side, and rear yards; and
- (3) previously approved site and/or development plans.

LOT, FRONT (RESIDENTIAL). That part of an interior or through lot which abuts a street. On a corner lot, the front shall be that part of the lot having the least amount of footage abutting the street, with the exception that if the lot is laid out so that the longer dimension is less than 1.6 times the narrower dimension, then a Zoning Enforcement Officer shall determine the front of the lot, based on the following:

- (1) the location and orientation of existing structure(s);
- (2) the size and functional usage of the existing front, side, and rear yards; and
- (3) platted building lines and restrictive covenants.

LOT, THROUGH. A lot having frontage on two parallel or approximately parallel streets.

LOT WIDTH. The dimension of a lot, measured between side lot lines on the building line.



MANUFACTURED HOME. A structure, fabricated in an off-site manufacturing facility, which is transportable in one or more sections and is designed for use as a dwelling with or without a permanent foundation when connected to the required utilities. Such a structure may or may not be built on an integral chassis. The term "manufactured home" shall not include a "recreational vehicle".

MANUFACTURED HOME PARK. A parcel of land designed for use by one or more Type II or Type III manufactured homes which provides the infrastructure and utilities necessary for single family occupancy of those homes.

MANUFACTURED HOME, TYPE I. A structure, fabricated in an off-site manufacturing facility for installation or assembly at a building site, which is designed for use as a dwelling, either by itself or in conjunction with other similar units. Typically, a modular home would fall under this definition. To be considered a Type I manufactured home, the structure must:

- (1) be constructed in conformance with the Indiana One and Two Family Dwelling Code;
- (2) consist of two or more sections;
- (3) be placed on a continuous, permanent underfloor foundation which is not pierced, except for required ventilation and access;
- (4) have siding and roofing material of a type customarily used on dwellings constructed on-site;
- (5) not be constructed with an integral chassis or permanent hitch; or wheels, axles, or other device allowing transportation; and
- (6) be designed to be transported by a trailer or other similar carrier which is not designed to be permanently attached to the dwelling or remain with it after the structure is placed on its foundation.

MANUFACTURED HOME, TYPE II. A structure, fabricated in an off-site manufacturing facility for installation or assembly at a building site, bearing a seal certifying that it is built in compliance with the Federal Manufactured Home Construction and Safety Standards Act (42 USC Section 5401, et. Seq.) or IC 22-15-4-1 (as opposed to a Type I manufactured home which is built in conformance with the Indiana One and Two Family Dwelling Code). To be considered a Type II manufactured home, the structure must:

- (1) contain at least nine hundred fifty (950) square feet of occupied space per dwelling unit;
- (2) be a double or multiple section unit;

- (3) be placed on a permanent under-floor foundation installed in conformance with the Indiana One and Two Family Dwelling Code and according to the manufacturer's installation specifications;
- (4) be placed onto a permanent perimeter enclosure in conformance with the Indiana One and Two Family Dwelling Code;
- (5) have the wheels, axles, and hitch mechanisms removed;
- (6) have siding and roofing material of a type customarily used on dwellings constructed on-site;
- (7) be connected to all the utilities necessary for the occupancy of the unit, in conformance with the Indiana One and Two Family Dwelling Code; and
- (8) have been constructed after January 1, 1981.

MANUFACTURED HOME, TYPE III. A structure, fabricated in an off-site manufacturing facility, which is transportable in one or more sections and is designed for use as a single family dwelling. A mobile home would meet this definition. To be considered a Type III manufactured home, the structure must:

- (1) be properly connected to all utilities necessary for the occupancy of the unit; and
- (2) be set on piers and properly skirted, with wheels and axles removed, in a manufactured home park.

MASSAGE THERAPY ESTABLISHMENT. Any establishment having a source of income or compensation derived from the practice of massage, which complies with and is licensed under the provisions of chapter 114 of the City Code.

MEDICAL CENTER (see "Medical/Dental Clinic").

MEDICAL/DENTAL CLINIC. A facility organized and operated for the primary purpose of providing health services for outpatient treatment and care, staffed by three or more licensed physicians and/or professionals, and their associates. This use includes laboratories, pharmacies, and other related service facilities operated in conjunction with the clinic.

MENTAL ILLNESS. A psychiatric disorder that:

- (1) Substantially disturbs an individual's thinking, feeling, or behavior; and
- (2) Impairs the individual's ability to function.

The term includes alcoholism, and addiction to narcotics or dangerous drugs.

MENTALLY ILL INDIVIDUAL. An individual who:

- (1) Has a psychiatric disorder that substantially impairs the individual's mental health; and
- (2) Requires care, treatment, training or detention:
 - (a) Because of the psychiatric disorder; or
 - (b) For the welfare of the community in which the individual resides.

MICRO/MINI BREWERY. An establishment where beer, ale, etc. are brewed, typically in conjunction with a bar, tavern or restaurant use. The maximum brewing capacity shall not exceed 20,000 gallons per year.

MOBILE FOOD SERVICE UNIT. A vehicle, typically a van, truck, towed trailer, or pushcart, from which food and beverages are sold.

MOBILE HOME (see "Manufactured Home, Type III").

MOBILE HOME PARK (see "Manufactured Home Park").

MODULAR HOME (see "Manufactured Home, Type I").

MORTUARY (see "Funeral Home").

MOTOR VEHICLE. A passenger vehicle, bus, recreational vehicle, truck, semi trailer, motorcycle, motorized vehicles stored or transported on a trailer or similar vehicles propelled or drawn by mechanical power.

MOTOR VEHICLE STORAGE YARD. A lot, tract, or development parcel used for the temporary, short term (up to 90 days) storage of motor vehicles either as a primary use or accessory use to an existing permitted motor vehicle towing facility. Junk and salvage yards shall not be included under this definition.

MULTIPLE FAMILY COMPLEX. A grouping of two or more multiple family structures.

MUNICIPAL SOLID WASTE LANDFILL FACILITY. A publicly or privately owned land disposal facility designed to accommodate and dispose of certain types of solid waste as defined and described in 329 IAC 10-2, excluding hazardous waste regulated by 329 IAC 3.1 or any subsequent applicable revisions. The facility shall be operated by spreading the waste in layers, compacting to the smallest practical volume, and covering with material applied at the end of each operating day. The facility shall be operated under permits issued by the appropriate government agencies.

NEIGHBORHOOD FACILITY. A facility intended to serve or accommodate the needs of a specific segment of a community or area.

NIGHT CLUB. An establishment dispensing liquor and meals in which music, dancing, or entertainment is provided. Any establishment which would fall under the definition of "adult cabaret" shall not be included under this definition.

NONPROFIT PRIVATE CLUB. An establishment primarily for the use of the members of a nonprofit corporation or association. The operation of the club may include the serving of food and alcoholic beverages, subject to all other applicable regulations.

NURSING HOME. A facility licensed by the State Board of Health which provides nursing services on an continuing basis; admits the majority of the occupants upon the advice of physicians as ill or infirm persons requiring nursing services; provides for licensed physicians services or supervision; and maintains medical records. A convalescent home, health and rehabilitation center, and rest home, if meeting the above criteria, shall also be included under this definition.

ORNAMENTAL FENCE. An open fence intended to partition or enclose a property or a portion of a property. Ornamental fences shall include, but not be limited to split rail, picket, wrought iron, and similar open fences.

OUTDOOR DISPLAY. The placement of goods, equipment or materials for sale, rental or lease in a location not enclosed by a structure consisting of walls and a roof. "Outdoor display" shall not mean yard sales as defined in this chapter.

OUTDOOR RECREATION FACILITY. Private recreation facilities which do not include athletic or recreational fields as a primary component of the use. Structures are typically required by or are part of the primary use of the facility. This use shall not include public parks, public recreation areas or recreation uses which are accessory uses to existing permitted primary uses.

OUTDOOR RECREATION USE. Private athletic or recreational fields or similar uses. Structures may be required by the uses; however, they would typically only be provided as accessory uses to the primary recreation use. This use shall not include public parks, public recreation areas or recreation uses which are accessory uses to existing permitted primary uses.

OUTDOOR RETAIL SALES. The display and sale of products and services outside of a building or structure, including vehicles, garden supplies, gas, motor oil, food and beverages, boats and aircraft, farm equipment, motor homes, burial monuments, building and landscape materials, and similar materials or items.

OUTDOOR STORAGE. The keeping of goods, materials or equipment in a location not enclosed by walls and a roof.

PARKING LOT (See "Public Parking Area").

PARKING SPACE (OFF-STREET, ONE). A space other than on a street or alley designed for use or used for the temporary parking of a motor vehicle.

PERMANENT FOUNDATION. A structural system for transferring loads from a structure to the earth, which meets the applicable specifications and requirements of the Indiana One and Two Family Dwelling Code.

PERSON. A corporation, firm, partnership, association, organization or any other group acting as a unit, as well as a natural person.

PLANNING JURISDICTION. All areas in Allen County, Indiana, which lie within the corporate limits of the City of Fort Wayne or otherwise fall under the planning and zoning jurisdiction of the City of Fort Wayne.

PLANNING STAFF. The personnel of the Land Use Management section of the City of Fort Wayne Planning Department.

PLANT NURSERY. Any land used to raise or temporarily store trees, shrubs, flowers, and other plants for sale or for transplanting.

PRIVATE SCHOOL. Private pre-school, elementary, junior high, senior high, or other preparation school or academy.

PUBLIC PARKING AREA. A parking area available to the public, with or without the payment of a fee, used for parking of more than four (4) motor vehicles.

PUBLIC PARKING STRUCTURE. A building or structure consisting of one or more levels, used to store motor vehicles, available to the public with or without the payment of a fee.

RECREATIONAL VEHICLE. A vehicle built on a single chassis, containing 400 square feet or less when measured at the largest horizontal projections, and designed to be self propelled or towed by another vehicle. A recreational vehicle is not designed or intended for use as a permanent dwelling, but as temporary living quarters for recreational camping, travel, or seasonal use. This definition includes vehicles such as travel trailers, motor homes, boats, house boats, and campers.

RECYCLING COLLECTION POINT. An accessory use, structure, or enclosed area that serves as a neighborhood drop-off point for temporary storage of recyclable materials. A recycling collection point may also include a facility for the temporary collection of used clothing and household goods.

RECYCLING PROCESSING FACILITY. A facility where recyclable materials, such as newspapers, magazines, books, and other paper products, glass, metal cans, and other products are recycled, reprocessed, and treated in order to return such products to a condition where they may be reused.

RESIDENTIAL CONDOMINIUM DEVELOPMENT. A residential development created as a horizontal property regime (pursuant to IC 32-6-1-1 et. seq.) where each dwelling unit is owned or financed by the occupant or occupant's lessor,

but in which the common areas, facilities, and underlying land is owned jointly by all the owners on a proportional, undivided basis.

RESIDENTIAL FACILITY FOR THE DEVELOPMENTALLY DISABLED.

(1) For not more than eight developmentally disabled individuals, exclusive of supervisory staff, councilors or resident managers; and

(2) Established under a program authorized as a Community Residential Program for Developmentally Disabled Individuals and licensed by the state as set forth IC 12-11-1.

RESIDENTIAL FACILITY FOR THE MENTALLY ILL. A residential facility for the care, treatment, training or detention of mentally ill individuals.

REST HOME (See "Nursing Home").

RETAIL PLANT NURSERY. A commercial use devoted to the sale of trees, shrubs, flowers, or similar plants and related goods, items, and supplies.

RETAINING WALL. Any fence or wall built or designed to retain or restrain lateral forces of soil or other materials, said materials being similar in height to the height of the wall.

RETIREMENT FACILITY. A independent living facility designed to meet the needs of persons 55 years of age or over. Typically the facility consists of independent living apartments along with common areas for meals, social gatherings, and recreation. Services such as transportation, housekeeping, dietary supervision, recreational activities, and coordination for home health care may also be offered. However, the primary purpose of the facility is not to provide medical services for its residents.

SANITARY LANDFILL (See "Municipal Solid Waste Landfill Facility").

SEASONAL OUTDOOR RETAIL SALES. Any business or use (primary or accessory), that is conducted primarily out of doors, which may include but not be limited to: retail sales of garden supplies and equipment; roadside stands for the sale of fruits and vegetables, plants, flowers, Christmas trees, fireworks; and other similar businesses or uses.

SECURITY FENCE. A fence erected as a barrier to persons, animals, or vehicles entering or leaving the enclosed area.

SELF-SERVICE STORAGE (MINI-WAREHOUSE) FACILITY. A building or group of buildings consisting of individual, self-contained units that are leased to individuals, organizations, or businesses for self-service storage of personal property.

SIGN (See §154.02 for the definition of "sign").

SIGN FABRICATING SHOP. An establishment where the primary use is the fabrication of freestanding, wall, identification, or other signage for off-site installation.

SIGN SALES STORE. An establishment where the primary use is the retail sale of signs, banners, or similar items. Limited on-site fabrication or creation of signage may be permitted.

SOLID WASTE. Any garbage, refuse, sludge from a wastewater treatment plant, sludge from a water supply treatment plant, sludge from an air pollution control facility, or other discarded material as described in 329 IAC 10-2-174(A)(6). However, the term "solid waste" does not include the following:

- (1) solid or dissolved material in domestic sewage, solid or dissolved materials in irrigation return flows, or industrial discharges which are point sources subject to permits under Section 402 of the Federal Water Pollution Control Act Amendments (33 U.S.C. 1342) and under chapter 51 of the City Code;
- (2) source, special nuclear, or byproduct material as defined by the Atomic Energy Act of 1954 (42 U.S.C. 2014 et seq.);
- (3) manures or crop residues returned to the soil at the point of generation as fertilizers or soil conditioners as part of a total farm operation; or
- (4) vegetative matter at composting facilities registered under IC 13-7-35.

SPECIALTY ANIMAL OPERATION. An agricultural operation where the following animals are kept for use as part of a farm or raised for sale: llamas, ostriches, emus, and similar livestock and/or birds.

STORY. That portion of a building included between the surface of any floor and the surface of the floor next above, or if there is no floor above it, then the space between any floor and the ceiling next above it; also any portion of a building used for human occupancy between the topmost floor and the roof. A basement shall not be counted as a story unless the height of the surface of the first floor above the average elevation of the finished lot grade at the front of the building exceeds four feet.

STORY, HALF. A story under a gable, hip or gambrel roof, the wall plates of which on at least two opposite exterior walls are not more than two feet above the floor of such story.

STREET. A public way established or dedicated by duly recorded plat, deed, grant, governmental authority or by operation of law.

STRUCTURE. Anything constructed or erected which requires location in or on the ground or attachment to something having a location in or on the ground.

STRUCTURE, PRIMARY (See building, primary).

TEMPORARY SPECIAL EVENT. A short-term seasonal event intended to occupy a lot, tract, or development parcel for up to (7) days per event.

TEMPORARY STRUCTURE. A trailer, mobile unit, or other structure intended to be placed on a lot, tract, or development parcel for a limited period of time.

TEMPORARY USE. A temporary or seasonal use intended to occupy a lot, tract, or development parcel for up to (7) days per event.

USE. The purpose or activity for which land or buildings are designed, arranged, or intended or for which land or buildings are occupied or maintained.

USE, NONCONFORMING. An existing use of land or a building which fails to comply with the requirements set forth in this chapter applicable to the district in which such use is located.

USED CAR SALES LOT. A lot, tract, or development parcel where the primary use is the sale of used automobiles. All automobiles offered for sale shall be mechanically operable and shall not be wrecked or similarly damaged.

WAREHOUSE AND/OR DISTRIBUTION FACILITY. A use, other than a self-service storage (mini-warehouse) facility, engaged in storage, wholesale, and distribution of manufactured products, supplies, and equipment, but excluding bulk storage of materials that are inflammable or explosive or that create hazardous or commonly recognized offensive conditions.

WASTE DISPOSAL AREA. The outermost perimeter of the area within a municipal solid waste disposal facility that is permitted to receive solid waste for disposal.

WETLANDS. Those areas that are inundated or saturated by surface or ground water at a frequency and duration sufficient to support, and that under normal circumstances do support, a prevalence of vegetation typically adapted for life in saturated soil conditions. "Wetlands" generally include swamps, marshes, bogs and similar areas and may be determined from the following sources: National Wetlands Inventory maps published by the U.S. Department of the Interior, Fish and Wildlife Service; areas designated as "marsh" in the Hydrologic Investigations Atlas published by the U.S. Department of the Interior, Geologic Survey; as "poorly drained" and "very poorly drained" and verified by the Soil Conservation Service.

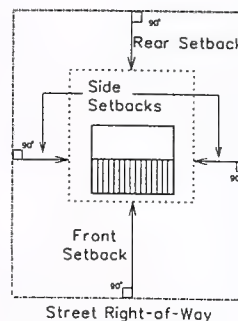
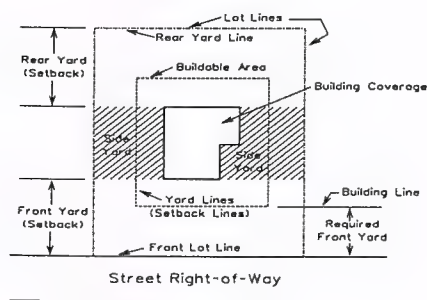
YARD. A space on the same lot with a main building open, unoccupied and unobstructed by structures, except as otherwise provided or permitted in this chapter.

YARD, FRONT. A yard extending across the full width of the lot, the depth of which is the least distance between the street right-of-way line and the building line.

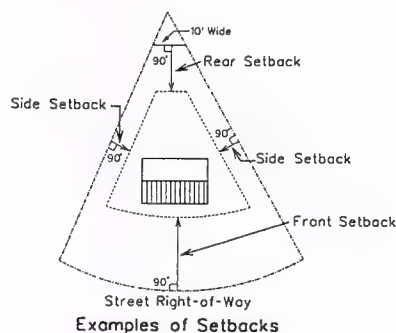
YARD, REAR. A yard extending across the full width of the lot between the rear of the primary building or structure and the rear lot line, the depth of which is the least distance between the rear lot line and the rear of the primary building or structure. If the rear lot line is less than ten (10) feet long, or the lot comes to a point at the rear, the required rear yard shall be measured from a line where the rear of the lot is ten (10) feet wide and parallel or tangent to the front street line.

YARD SALE. A sale of personal property to the general public on any portion of a residential property, including properties in nonresidential zoning districts which are used for residential purposes. This definition shall also include all sales entitled garage, patio, carport, basement, porch, driveway, rummage and the like.

YARD, SIDE. A yard between the primary building or structure and the side lot line, extending from the front yard or front lot line where no front yard is required, to the rear yard. The width of the required side yard is measured horizontally, at 90° with the side lot line, from the nearest point of the side lot line to the nearest part of the primary building or structure.



Examples of Setbacks



Examples of Setbacks

1 **ZONING DISTRICTS.** Delineated areas within the planning jurisdiction of the City, as shown on the zoning maps for the
City, to which the regulations of the City Zoning, Sign, and Subdivision Control Ordinances apply.

2 **ZONING ENFORCEMENT OFFICER.** A member or members of the Planning staff who issues any and all required
3 permits and enforces the provisions of this chapter and chapters 154 and 155 of City Code within the planning jurisdiction of
the City.

4
5 **§157.102 CONTINGENT USES.**

6 The following contingent uses may be permitted by the Board of Zoning Appeals in any zoning district if the Board determines
that the request meets the requirements of §157.044(C)(1). As part of its approval, the Board may impose reasonable
7 conditions regarding the location, site design, and other features of the proposed building, structure, use, or site development as
are reasonably related to the purposes of this chapter.

8 (A) **Airports** (public and private), including accessory structures and uses.

9 (B) **Cemeteries** (public and private), including accessory uses such as crematories, mausoleums, and/or mortuaries.

10 (C) **Community facilities** not otherwise permitted, such as a botanical garden/conservatory, library, planetarium, public
11 transportation or similar public facility, museum, zoo, or similar use.

12 (D) **Correctional institutions.**

13 (E) **Educational institutions** not otherwise permitted.

14 (F) **Golf courses**, including accessory uses such as driving ranges and/or maintenance and clubhouse facilities.

15 (G) **Group residential facilities**, provided the use will not be unduly detrimental to the surrounding area because of number
of residents, noise, vehicle traffic, parking, or other similar activity.

16 (H) **Health care facilities** not otherwise permitted, such as a hospital, nursing home, assisted living facility, or similar
17 facility.

18 (I) **Heliports** (public and private), as a primary or accessory use.

19 (J) **Public or employee parking areas**, when used as an accessory use to a conforming or a legal nonconforming use and
located within 300 feet of the main use or structure on an adjacent or detached lot, subject to the requirements of
20 §157.140 through §157.144.

21 (K) **Utility and commercial communication facilities** not otherwise permitted, such as:

22 (1) electric substations and telephone exchanges;

23 (2) radio, television, telephone, or similar transmitter stations and towers, as a primary or accessory use. However, a
contingent use permit shall not be required for a commercial communication tower which would be an accessory
24 use to a permitted primary use, provided the tower does not exceed the height requirement of the zoning district in
which it is proposed or 75 feet (whichever is less); and

25 (3) other similar uses of a public utility or public service nature, including structures and accessory uses as needed,
26 excluding exempt public utility uses regulated by the Indiana Utility Regulatory Commission as defined in IC 81-1-
2-1.

1 **§157.103 SPECIAL USES.**

2 The following special uses may be permitted by the Board of Zoning Appeals, in the zoning districts specified in this section,
3 if the Board determines that the request meets the requirements of §157.044(C)(2). As part of its approval, the Board may
4 impose reasonable conditions regarding the location, site design, and other features of the proposed building, structure, use, or
5 site development as are reasonably related to the purposes of this chapter. In reviewing a petition for any special use, the
6 Board shall also consider the location and size of the use; the nature and intensity of the operations involved in or conducted in
7 connection with it; and its site layout, including access provisions and parking requirements. See the table at the end of this
8 section for a reference list of permitted special uses and the zoning districts where the special uses are allowed.

9 (A) **Agricultural uses**, as further set forth below, may be permitted by the Board in an AR District.

10 (1) Horticultural/specialty crop production. As part of its consideration of the request, the Board may also consider on-
11 site retail sales of products grown.

12 (2) Specialty animal operation.

13 (B) **Animal raising or breeding** for laboratory uses, fur or scent production, or other similar non-food production purposes
14 (as distinguished from general livestock raising), may be permitted by the Board in CM2 and CM3 Districts.

15 (C) **Automobile sales and services** may be permitted by the Board in a CM2 District provided the Board finds the proposed
16 use will be compatible with the existing surrounding land uses.

17 (1) The Board may consider granting a special use for the following:

18 (a) automobile detailing shop;

19 (b) automobile maintenance facility (quick service);

20 (c) automobile repair shop;

21 (d) automobile sales; and

22 (e) similar automobile service uses.

23 (2) The following uses shall not be permitted as a special use under this division:

24 (a) automobile restoration;

25 (b) automobile undercoating and rustproofing service; and

26 (c) automobile body shop.

27 (D) **Bed and breakfast establishments** may be permitted by the Board in R3 and RP Districts.

28 (E) **Business storage facilities** may be permitted by the Board in CM3 and CM4 Districts. The facility shall be used as an
29 accessory use to a conforming commercial or industrial use located on the same or detached lot or tract within 500 feet of
30 the primary use, provided that all material storage at the facility shall be located within an enclosed structure.

31 (F) **Class II child care homes** may be permitted by the Board in AR, R1, R2, R3, and RP Districts.

32 (G) **Commercial greenhouse or retail plant nursery** may be permitted by the Board in CM2 Districts.

1 (H) **Country clubs** may be permitted by the Board in AR, R1, R2, R3, and RP Districts. A country club may include related
2 accessory and/or recreational uses such as a golf course.

3 (I) **Fairgrounds** may be permitted by the Board in CM2, CM3, CM4 and CM5 Districts.

4 (J) **Funeral homes** may be permitted by the Board in AR, R1, R2, and RP Districts.

5 (K) **Hazardous waste treatment, storage, and/or disposal facilities** may be permitted by the Board in IN2 and IN3
6 Districts. A special use is required for a new hazardous waste treatment, storage, and/or disposal facility, or an expansion
7 of an existing facility, where the proposed waste disposal area has not been previously approved by the Board or other
8 applicable zoning authority. In addition to meeting the requirements of §157.044(C)(2), the proposal shall meet the
9 requirements listed in this section.

10 (1) **Area, setback, and location requirements.** The proposed facility shall meet the following requirements:

- 11 (a) the total land area of a new facility shall be at least 50 acres;
- 12 (b) any lateral expansion of an existing facility shall be located on land which is contiguous to the existing facility
13 site; otherwise, the request shall be considered as a new facility;
- 14 (c) the hazardous waste disposal area of a facility must comply with the following setback restrictions, and shall
15 not be located within:
 - 16 (i) 200 feet of the property lines of the facility;
 - 17 (ii) 2,640 feet of a public or private school or educational institution primary structure;
 - 18 (iii) 900 feet of a dwelling;
 - 19 (iv) 1,000 feet of a drinking water supply reservoir that is being used as a drinking water supply for humans;
 - 20 (v) 200 feet of a continuously flowing river or stream; and
 - 21 (vi) 600 feet of any commercial or industrial structure.

22 Where these provisions require a setback from a structure, that structure must be in existence as of the date of the public
23 notice for Board of Zoning Appeals consideration of the request.

24 (2) **Review requirements.** As a part of its review of the request, the Board will also consider other applicable issues,
25 including but not limited to the following:

- 26 (a) the location and construction of entrances and roadways proposed to serve the facility, including provisions for
27 dust, litter, noise, and mud control;
- (b) transportation and trucking routes to and from the facility;
- (c) hours of operation;
- (d) proposals for recycling or similar operations;
- (e) proposals for quantities, types, and sources of materials to be accepted, along with proposals for storage of
materials;

(f) proposals for the provision of screening, buffering, and fencing between the facility and adjacent structures and uses; and

(g) the proposed height of the hazardous waste disposal area of the facility.

(3) If the Indiana Hazardous Waste Site Approval Authority is in existence, any request to establish, expand, or modify a hazardous waste treatment, storage, and/or disposal facility shall be under the exclusive control of that authority to review and determine. Approval by the Board shall not be required if a facility has received approval from the State as set forth in IC 13-7-8.6 or any subsequent applicable revisions and, as part of that approval, local zoning and land use control over the facility is specifically pre-empted.

(4) In addition to receiving Board of Zoning Appeals approval of a special use, the facility shall be:

(a) reviewed and approved by the applicable state and/or federal regulatory agencies;

(b) constructed in accordance with the provisions of 329 IAC 3.1 or any subsequent applicable revisions; and

(c) constructed and operated in accordance with a permit issued by the appropriate government agency as authorized by the Resource Conservation and Recovery Act (40 CFR 260 - 40 CFR 270, 42 U.S.C 6901, et seq.) and IC 13-7-8.5.

(5) Before a Certificate of Compliance may be issued for a new hazardous waste treatment storage and/or disposal facility, or an expansion of an existing facility, the owner or operator of the facility shall submit documentation to show that all necessary permits required under applicable federal, state, and local laws, ordinances, and regulations have been obtained. If the documentation is not filed the Certificate of Compliance shall not be issued. If at any time during the operation of the facility a required permit is revoked or suspended, the Zoning Enforcement Officer may revoke the Certificate of Compliance for the facility, and take any other enforcement action permitted under this chapter.

(L) **Home-based businesses** may be permitted by the Board in AR, R1, R2, R3, and RP Districts.

(1) In addition to meeting the criteria established in §157.044(C)(2), the home-based business shall meet the following requirements:

(a) the business shall only be operated by residents of the dwelling; no outside employees shall be permitted;

(b) the business shall not change the residential character of the structure or immediate area;

(c) the business must be incidental and secondary to the principal use of the dwelling as a residence, and must be conducted entirely within the dwelling or attached garage. No home-based business shall be operated from a detached accessory structure;

(d) the business shall use only normal office equipment, including but not limited to a typewriter, computer, calculator, fax machine, or copier. Equipment noise shall not be permitted to adversely affect adjacent properties;

(e) the business shall not occupy more than 25% of the gross floor area of the dwelling unit, including any space used for storage for the business. All storage related to the business use shall be contained within the dwelling or attached garage;

(f) the business shall not display or create any external evidence of the business, except that a single vehicle, used in conjunction with the business, may be parked outside and may display advertising or a logo. The vehicle shall comply with the restrictions listed in §72.23 of the City Code;

- (g) no structural alterations shall be made to the dwelling unit to accommodate the business. No separate entrances or building additions shall be added for the use of the business;
- (h) a home-based business shall not be permitted in a multiple family dwelling with three or more dwelling units;
- (i) only one (1) business shall be permitted per dwelling unit, and the Board may approve the business for use by the current resident/applicant only;
- (j) there may be a limited number of clients or customers who come to the home; the number may be established by the Board;
- (k) retail sales shall not be permitted on the property; except that as part of its consideration of the request, the Board may permit limited retail sales as an accessory use;
- (l) wall and freestanding signage shall not be permitted in association with the home-based business, and the address of the home may not be used to advertise the business except for advertising such as printed literature or business cards; and
- (m) as part of its review of a request for a home based business, the Board may consider any existing plat or deed restrictions limiting the uses of the property included in the request.

(2) **Permitted home-based businesses.** Permitted home-based businesses shall include but not be limited to:

- (a) accounting or bookkeeping office;
- (b) architect, engineer, land surveyor, or other similar office;
- (c) massage therapy;
- (d) one-chair beauty salon, barber shop, nail salon, or similar use;
- (e) photography studio;
- (f) psychic reading business;
- (g) real estate, insurance, law, or similar office;
- (h) seamstress or tailor; and
- (i) teaching/tutoring, including music lessons.

(3) **Prohibited home-based businesses.** Prohibited home-based businesses shall include but not be limited to:

- (a) amusement enterprises of any public nature;
- (b) animal grooming, animal kennel, or pet shop; and
- (c) production, manufacturing, assembly, or repair of products or components of products.

(M) **Home workshops** may be permitted by the Board in AR, R1, R2, R3, and RP Districts.

- (1) In addition to meeting the criteria established in §157.044(C)(2), the workshop shall meet the following requirements:

- (a) the person operating the home workshop shall be a resident of the premises; no outside employees shall be permitted;
- (b) in no case shall a home workshop be allowed in an accessory structure prior to the occupancy of the principal dwelling on the lot, parcel, or tract of land;
- (c) the workshop shall not change the residential character of the structure or immediate area;
- (d) the workshop must be incidental and secondary to the principal use of the dwelling as a residence, and must be conducted entirely within the dwelling, attached garage, or accessory structure located on the same lot or tract;
- (e) the workshop shall use only that equipment appropriate for small scale enterprises. Equipment noise shall not be permitted to adversely affect adjacent properties. As part of the application the applicant shall include a list of any equipment proposed to be used as part of the operation of the home workshop for review and approval by the Board;
- (f) the workshop shall not occupy more than 25% of the gross floor area of a single family residence, or 50% of the gross floor area of an accessory structure, including any space used for storage for the workshop. All storage related to the use of the workshop shall be contained within the dwelling or accessory structure;
- (g) the business shall not display or create any external evidence of the business, except that a single vehicle, used in conjunction with the business, may be parked outside, and may display advertising or a logo. The vehicle shall comply with the restrictions listed in §72.23 of the City Code;
- (h) no separate entrances or building additions shall be added to the dwelling unit or attached garage for the use of the workshop;
- (i) a home workshop shall not be permitted in a two family or multiple family dwelling unit, or in an accessory structure on the same lot or tract as a two family or multiple family dwelling;
- (j) only one (1) home workshop shall be permitted per lot or tract, and the Board may approve the workshop for use by the current resident/applicant only;
- (k) there may be a limited number of clients or customers who come to the home; the number may be established by the Board;
- (l) retail sales shall not be permitted on the property; except that as part of its consideration of the request, the Board may permit limited retail sales as an accessory use;
- (m) wall and freestanding signage shall not be permitted in association with the home workshop, and the address of the home may not be used to advertise the workshop except for advertising such as printed literature or business cards; and
- (n) as part of its consideration of a request for a home workshop, the Board may consider any existing plat or deed restrictions limiting the uses of the property included in the request.

(2) **Permitted home workshops.** Permitted home workshops shall include but not be limited to:

- (a) ceramics/pottery making or similar crafts;
- (b) copy and duplicating service;
- (c) small electronic equipment repair such as televisions and video cassette recorders; and

(d) woodworking.

(3) **Prohibited home workshops.** Prohibited home workshops shall include but not be limited to:

(a) amusement enterprises of any public nature;

(b) animal grooming, animal kennel, or pet shop;

(c) cabinet or furniture making;

(d) mechanical or body repair of automotive vehicles, other than routine maintenance and minor repair of personal motor vehicles titled to the occupants of the property; and

(e) small engine repair.

(N) **Household pet breeding (major) operations** may be permitted by the Board in AR, R1, R2, R3, and RP Districts, as an accessory use to a permitted single family residential use, in accordance with the applicable provisions of chapter 91 of the City Code. Such an operation shall not be permitted in a two family or multiple family dwelling unit. As part of its review and consideration of the request, the Board may request comment and recommendations from the City Department of Animal Control.

(O) **Indoor shooting ranges** may be permitted by the Board in CM2 Districts, provided the range shall be constructed so as to prevent any danger from firearms to persons or property outside the facility. Noise from the facility shall not adversely affect adjacent properties.

(P) **Junk and salvage yards** may be permitted by the Board in IN3 Districts provided that the following conditions are met:

(1) no portion of the property used as a junk and/or salvage yard shall be located any closer than 300 feet from any city or county residential zoning district;

(2) all outdoor storage shall be located entirely within an enclosed seven-foot-high opaque visual barrier, except for driveway openings onto public streets or alleys. At such openings, the screen shall extend perpendicular to the perimeter screen a distance equal to the gap in the perimeter screen on each side of the opening;

(3) the opaque visual barrier shall be constructed along the front, side and rear lot lines and shall be constructed in such a manner that no outdoor storage or salvage material shall be visible from an adjacent property. Any storage between the visual barrier and any property line is prohibited;

(4) a minimum lot area of five (5) acres shall be required for any junk and salvage yard. The minimum dimension across the lot in any direction between two parallel or substantially parallel lot lines shall not be less than 300 feet;

(5) no junk and salvage yard shall be located in any designated floodplain and/or wetland areas; and

(6) the junk and salvage yard shall comply with all applicable fire and building codes.

(Q) **Manufactured homes (Type II)** may be permitted by the Board in AR, R1, R2, R3, and RP Districts, provided the Board finds the home is:

(1) comparable with the existing housing pattern in the immediate area with regard to density and setbacks, and in compliance with the applicable minimum standards and requirements of this chapter; and

(2) constructed with roofing and siding materials which are similar to the existing homes in the immediate area.

1 (R) **Medical centers or clinics** may be permitted by the Board in R3 and RP Districts, provided the Board finds the proposed
2 use will be compatible with the neighborhood or area in which it is to be located.

3 (S) **Motor vehicle storage yard** may be permitted by the Board in IN2 and IN3 Districts as either a primary use or an
4 accessory use to a permitted motor vehicle towing service.

5 (T) **Municipal solid waste landfill facilities** may be permitted by the Board in IN2 and IN3 Districts. A special use is
6 required for a new municipal solid waste landfill, or an expansion of an existing facility, where the proposed waste
7 disposal area has not been previously approved by the Board or other applicable zoning authority. In addition to meeting
8 the requirements of §157.044(C)(2), the proposal shall meet the requirements listed in this section.

9 (1) **Area, setback, and location requirements.** Under the provisions of 329 IAC 10, a municipal solid waste landfill
10 facility is subject to the location restrictions listed under 329 IAC 10-16, and shall meet the following requirements:

- 11 (a) the total land area of a new facility shall be at least 50 acres;
- 12 (b) any lateral expansion of an existing facility shall be located on land which is contiguous to the existing facility
13 site; otherwise, the request shall be considered as a new facility;
- 14 (c) the waste disposal area of a landfill facility must comply with the following setback restrictions, and shall not
15 be located within:
 - 16 (i) 200 feet of the property lines of the facility;
 - 17 (ii) 2,640 feet of a public or private school or educational institution primary structure;
 - 18 (iii) 900 feet of a dwelling;
 - 19 (iv) 1,000 feet of a drinking water supply reservoir that is being used as a drinking water supply for humans;
 - 20 (v) 200 feet of a continuously flowing river or stream; and
 - 21 (vi) 600 feet of any commercial or industrial structure.

22 Where these provisions require a setback from a structure, that structure must be in existence as of the date of the public
23 notice for Board of Zoning Appeals consideration of the request.

24 (2) **Review requirements.** As a part of its review of the request, the Board will also consider other applicable issues,
25 including but not limited to the following:

- 26 (a) the location and construction of entrances and roadways proposed to serve the facility, including provisions for
27 dust, litter, noise, and mud control;
- 28 (b) transportation and trucking routes to and from the facility;
- 29 (c) hours of operation;
- 30 (d) proposals for recycling or similar operations;
- 31 (e) proposals for quantities, types, and sources of materials to be accepted, along with proposals for storage of
32 materials;
- 33 (f) proposals for the provision of screening, buffering, and fencing between the facility and adjacent structures
34 and uses; and

(g) the proposed height of the waste disposal area of the landfill facility.

(3) In addition to receiving Board of Zoning Appeals approval of a special use, the facility shall be:

(a) reviewed and approved by the applicable state regulatory agency;

(b) constructed in accordance with the provisions of 329 IAC 10 or any subsequent applicable revisions; and

(c) constructed and operated in accordance with permits issued by the appropriate government agencies.

(4) Before a Certificate of Compliance may be issued for a new municipal solid waste landfill facility, or an expansion of an existing facility, the owner or operator of the facility shall submit documentation to show that all necessary permits required under applicable federal, state, and local laws, ordinances, and regulations have been obtained. If the documentation is not filed the Certificate of Compliance shall not be issued. If at any time during the operation of the facility a required permit is revoked or suspended, the Zoning Enforcement Officer may revoke the Certificate of Compliance for the facility, and take any other enforcement action permitted under this chapter.

(U) **Neighborhood facilities or uses**, such as not-for-profit neighborhood educational, recreational, or cultural facilities including, but not limited to a branch YMCA, YWCA, Boys and Girls Club, or Boy Scout or Girl Scout facility, may be permitted by the Board in AR, R1, R2, R3, and RP Districts provided the Board finds that it will be compatible with the character of the neighborhood or area in which it is to be located. However, the dispensing of alcoholic beverages on the premises shall not be permitted.

(V) **Nonprofit private clubs** such as an American Legion hall or similar fraternal organization may be permitted by the Board in R3 and RP Districts. However, if the operation of the club includes serving alcoholic beverages, the owner/operator must obtain all required state alcoholic beverage permits and any proposed new facility shall conform with minimum separation requirement from a church or school, as set forth in IC 7.1-3-21-11;

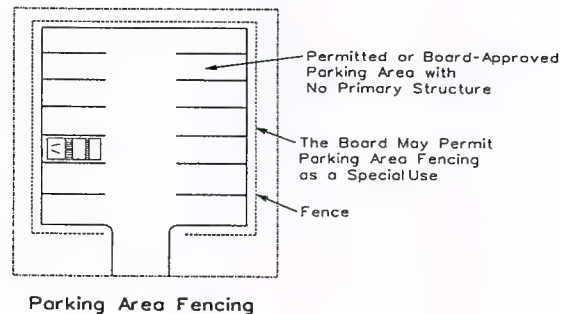
(W) **Off-premise signs** may be permitted by the Board in CM2, CM3, CM4, IN1, IN2 and IN3 Districts, except for properties within the Central Business District, to be between a 125 foot radius and a 350 foot radius from any city or county residential district, church, school, health care facility, historic district, designated historic structure, or property eligible for historic designation consistent with the following chart.

(1) In considering such a request, the Board will evaluate the height, location, and sightlines of the proposed sign and consider whether the sign would adversely affect the character of residential districts, churches, schools, health care facilities, designated historic structures, historic district, or property eligible for historic designation. The Board may impose reasonable conditions on the size, location, height and lighting of such a sign, to address any negative impact on the areas or uses noted above. Off-premise signs adjacent to historic districts, designated historic structures, or properties eligible for historic designation shall be located to ensure that all sightlines and vistas of historic features are maintained, and that such signs shall not negatively affect the historic integrity of such properties or structures.

(2) Concurrent with filing the petition with the Board of Zoning Appeals, the petitioner shall send a notice describing the proposal along with the date and time of the hearing to all property owners within a 350 foot radius of the petitioned location and any registered neighborhood associations having boundaries on the site or within a 350 foot radius of the site. A copy of the mailing list shall be submitted with the petition.

OFF-PREMISE SIGNS AUTHORIZED FOR SPECIAL USES				
Zoning District	Maximum Sign Size (sq. ft.)	Maximum Height (feet)	Minimum Setback (feet)	Distances from Residential/Historic District, School, etc. (feet)
CM2	100	35	15	125 - 350
CM3	100	35	15	125 - 350
CM4	300	35	20	125 - 350
IN1	100	35	15	125 - 350
IN2	300	35	20	125 - 350
IN3	675	35	30	125 - 350

- (X) **Outdoor recreational facilities** such as a golf driving range, miniature golf course, batting cage, or other similar uses may be permitted by the Board in CM2 and CM3 Districts.
- (Y) **Outdoor recreational uses** such as softball/baseball diamonds and/or soccer fields; or similar private outdoor recreational uses, as a principal use of the property, may be permitted by the Board in R3 and RP Districts.
- (Z) **Parking area fencing** may be permitted by the Board, as an accessory use to any permitted or Board approved public, customer, or employee parking area where there is no primary structure on the lot, tract, or development parcel. As part of its approval, the Board shall determine the location, height, and materials of the proposed fencing, subject to the visibility limitations in §157.113.



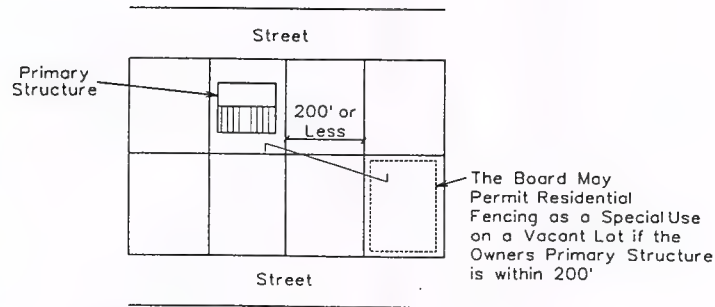
- (AA) **Professional offices and personal services** may be permitted by the Board in R3 and RP Districts. This use shall include services as described below, where the service is proposed to be provided from a location which is not the primary residence of the person(s) providing the service. It shall also include services which are operated in a way which prevents their being classified as a home occupation or home-based business. It is intended that the Board only consider professional offices, personal services, and similar low intensity nonresidential uses under this division. The Board may approve the business for the current resident/applicant only. Permitted offices and services shall include, but not be limited to:
- (1) adoption agency;
 - (2) advertising office;
 - (3) architect, engineer, land surveyor, or similar office;
 - (4) artist studio or school;
 - (5) bank, credit union, or savings and loan association;

- (6) barber shop;
- (7) beauty salon;
- (8) child and/or adult care center;
- (9) consulting service;
- (10) counseling service;
- (11) dance studio or school;
- (12) dentist office;
- (13) doctor office;
- (14) finance office;
- (15) insurance office;
- (16) interior designer office;
- (17) law office;
- (18) loan office;
- (19) massage therapy establishment;
- (20) medical related services;
- (21) nail salon;
- (22) optician or optometrist office;
- (23) professional or commercial office not otherwise listed;
- (24) real estate, broker, or appraiser office;
- (25) stockbroker office; and
- (26) tanning salon.

(BB) **Railroad switching yards for truck trailers** may be permitted by the Board in IN1, IN2, and IN3 Districts.

(CC) **Residential fencing** may be permitted by the Board in AR, R1, R2, R3, and RP Districts as the principal use of a residential lot or tract. The fencing shall be located within 200 feet of the lot or tract where the owner's primary structure is located. As part of its review of the request, the Board may also consider:

- (1) the height, location, and materials of the proposed fencing;
- (2) the location of structures on adjacent lots; and
- (3) granting a waiver of the required front yard setback.



Residential Fencing On A Vacant Lot

- (DD) **Residential uses and primary residential structures**, excluding Type III manufactured homes, may be permitted by the Board on CM1, CM2, CM3, CM4, and IN1 Districts. It is intended that the Board only consider individual lots or tracts under this division. As part of its approval of a proposal the Board may also permit residential accessory structures and uses.
- (EE) **Self-service storage (mini-warehouse) facilities** may be permitted by the Board in a CM3 District, provided that the following requirements are met:
- (1) the facility must have access to an arterial or collector street;
 - (2) the use shall be limited to self-service personal storage only; and
 - (3) landscaping shall be provided to adequately screen the structures and parking areas from any adjacent residential zoning district or residential use. The screening shall be at least 6 feet in height. The Board may also permit or require perimeter fencing for the site.
- (FF) **Temporary structures and uses** such as mobile office units or similar temporary facilities and uses permitted under §157.106, may be granted an extension of time by the Board for continuation of use.

SPECIAL USES	
Special Use	District(s)/Uses
Adoption agency	R3 and RP
Advertising office	R3 and RP
Animal raising or breeding (non-food production)	CM2 and CM3
Architect office	R3 and RP
Artist studio or school	R3 and RP
Automobile sales and services	CM2
Bank, credit union, or savings and loan association	R3 and RP
Barber shop	R3 and RP
Batting cage	CM2 and CM3
Beauty salon	R3 and RP
Bed and breakfast establishment	R3 and RP
Business storage facility	CM3 and CM4
Child and/or adult care center	R3 and RP
Class II child care home	AR, R1, R2, R3, and RP
Counseling service	R3 and RP
Commercial greenhouse or retail plant nursery	CM3
Consulting service	R3 and RP
Country club	AR, R1, R2, R3, and RP
Dance studio or school	R3 and RP
Dentist office	R3 and RP
Doctors office	R3 and RP
Engineer office	R3 and RP
Fairground	CM2, CM3, and CM5
Finance office	R3 and RP
Funeral home	AR, R1, R2, and RP
Golf driving range, miniature golf course	CM2 and CM3
Hazardous waste treatment, storage and/or disposal facility	IN2 and IN3
Home-based business	AR, R1, R2, R3, and RP
Home workshop	AR, R1, R2, R3, and RP
Horticultural/specialty crop production	AR
Household pet breeding (major) operations	AR, R1, R2, R3, and RP
Indoor shooting range	CM2
Insurance office	R3 and RP
Interior designer office	R3 and RP
Junk and salvage yard	IN3
Land surveyor office	R3 and RP
Law office	R3 and RP
Loan office	R3 and RP
Manufactured home Type II	AR, R1, R2, R3, and RP
Massage therapy	R3 and RP

SPECIAL USES	
Special Use	District(s)/Uses
Medical related services	R3 and RP
Medical center or clinic	R3 and RP
Motor vehicle storage yard	IN2 and IN3
Municipal solid waste landfill facility	IN2 and IN3
Nail salon	R3 and RP
Neighborhood facility	AR, R1, R2, R3, and RP
Nonprofit private club	R3 and RP
Off-premise signs between a 125 foot radius and a 350 foot radius from any city or county residential district, church, school, health care facility, or from any historic district or historic structure	CM2, CM3, CM4, IN1, IN2 and IN3 districts, except for properties within the defined Central Business District
Optician or optometrist office	R3 and RP
Outdoor recreation uses (ball diamonds and soccer fields)	R3 and RP
Parking area fencing	Any permitted or Board approved parking area
Professional or commercial office	R3 and RP
Railroad switching yard for truck trailers	IN1, IN2 and IN3
Real estate, broker, or appraiser office	R3 and RP
Residential fencing	AR, R1, R2, R3, and RP
Residential uses and primary residential structures	CM1, CM2, CM3, CM4, and IN1
Self-service storage (mini warehouse) facility	CM3
Specialty animal operation	AR
Stockbroker office	R3 and RP
Tanning salon	R3 and RP
Temporary structures and uses time extension	All districts

1 **§157.104 PERMITTED USES.**

2 The following uses shall be permitted in the specified zoning districts. Permitted uses shall include but not be limited to the
3 uses specified herein. All development proposals shall be subject to the applicable review and approval procedures as set forth
4 in §157.120 (Development Plans), §157.121 (Site Plan Routing Review), and §157.223 (Improvement Location Permit). If a
proposed use is not listed, a Zoning Enforcement Officer shall determine which zoning district(s) the use would be permitted
in. Permitted uses shall be allowed as set forth in the divisions below.

5 (A) **AR, Low Intensity Residential.** The Low Intensity Residential District is intended to create areas for both low intensity
6 residential and agricultural uses. The purpose of this district is to allow for the continuation of agricultural land uses
while also allowing low intensity residential development where adequate infrastructure is available. The following uses
are permitted in an AR District:

7 (1) agricultural uses and structures, including the following:

8 (a) agronomic crop production; and

9 (b) low intensity livestock operation;

10 (2) single family detached dwelling, including Type 1 manufactured home;

11 (3) accessory building, structure, or use;

12 (4) churches, synagogues, and other religious buildings and facilities used for religious assembly;

13 (5) day care (adult or child), class I child care home, adult care home;

14 (6) home occupation;

15 (7) police station, fire station, or similar public use;

16 (8) public park or recreation area, including accessory uses and structures;

17 (9) public, parochial, or private elementary, junior, and/or senior high schools;

18 (10) residential facility for the developmentally disabled; and

19 (11) residential facility for the mentally ill, provided that the facility shall not be located within 1000 feet of another
20 residential facility for the mentally ill, as measured between lot lines.

21 (B) **R1, Single Family Residential.** The Single Family Residential District is intended to create areas for single family
22 residential uses on individual lots or tracts. The purpose of this district is to provide for an environment of predominantly
single family development with certain additional uses. The following uses are permitted in an R1 District:

23 (1) single family detached dwelling, including Type 1 manufactured home;

24 (2) accessory building, structure, or use;

25 (3) churches, synagogues, and other religious buildings and facilities used for religious assembly;

26 (4) day care (adult or child), class I child care home, adult care home;

27 (5) home occupation;

- (6) police station, fire station, or similar public use;
- (7) public park or recreation area, including accessory uses and structures;
- (8) public, parochial, or private elementary, junior, and/or senior high schools;
- (9) residential facility for the developmentally disabled; and
- (10) residential facility for the mentally ill, provided that the facility shall not be located within 1000 feet of another residential facility for the mentally ill, as measured between lot lines.

(C) **R2, Attached Single Family and Two Family Residential.** The Attached Single Family and Two Family Residential District is intended to create areas for medium density residential uses on individual lots or tracts. The purpose of this District is to provide for a combination of predominantly single family and two family residential development. The following uses are permitted in an R2 District:

- (1) all uses permitted in the R1 District;
- (2) two family dwelling; and
- (3) attached single family dwelling.

(D) **R3, Multiple Family Residential.** The Multiple Family Residential District is intended to create areas for high density multiple family residential uses, as well as single and two-family dwelling units and other compatible or essential nonresidential uses, while also allowing for certain compatible professional office and commercial uses if first approved by the Board of Zoning Appeals (see §157.040). Multiple family complexes shall require the review and approval of a development plan (see §157.120). The following uses are permitted in an R3 District:

- (1) all uses permitted in the R2 District;
- (2) multiple family dwelling;
- (3) multiple family complex;
- (4) funeral home (excluding crematorium); and
- (5) fraternity or sorority house.

(E) **RP, Planned Residential.** The Planned Residential District is intended to create areas for mixed residential uses. The purpose of this district is to permit residential and other compatible or essential nonresidential uses while also allowing for certain compatible professional office and commercial uses if first approved by the Board of Zoning Appeals (see §157.040). Multiple family dwellings and multiple family complexes shall require the review and approval of a development plan (see §157.120). The following uses are permitted in an RP District:

- (1) single family detached dwelling, including Type I manufactured home;
- (2) attached single family dwelling;
- (3) multiple family dwelling;
- (4) multiple family complex;
- (5) two family dwelling;

- (6) residential condominium development;
- (7) accessory building, structure, or use;
- (8) churches, synagogues, and other religious buildings and facilities used for religious assembly;
- (9) day care (adult or child), class I child care home, adult care home;
- (10) home occupation;
- (11) police station, fire station, or similar public use;
- (12) public park or recreation area, including accessory uses and structures;
- (13) public, parochial, or private elementary, junior, or senior high schools;
- (14) residential facility for the developmentally disabled; and
- (15) residential facility for the mentally ill, provided that the facility shall not be located within 1000 feet of another residential facility for the mentally ill, as measured between lot lines.

(F) **MR, Manufactured Residential.** The Manufactured Residential Districts are intended to create areas for Type II and Type III manufactured homes, along with similar residential uses and other compatible or essential nonresidential uses. Prior to a tract or development parcel being developed as a manufactured home park or a manufactured residential subdivision, the proposed tract or development parcel shall be rezoned to a specific MR District and shall be subject to the following requirements pertaining to that district. Manufactured home park developments shall also require the review and approval of a development plan (see §157.120).

- (1) **MR1, Manufactured Residential Subdivision.** The Manufactured Residential Subdivision District is intended to create areas for the development of Type II manufactured homes on individual lots which will provide for an environment of predominantly single family development with certain additional uses. The following uses are permitted in an MR1 District:
 - (a) single family detached dwelling, including Type I and Type II manufactured home;
 - (b) accessory building, structure, or use;
 - (c) churches, synagogues, and other religious buildings and facilities used for religious assembly;
 - (d) day care (adult or child), class I child care home, adult care home;
 - (e) home occupation;
 - (f) police station, fire station, or similar public use;
 - (g) public park or recreation area, including accessory uses and structures;
 - (h) public, parochial, or private elementary, junior, and/or senior high schools;
 - (i) residential facility for the developmentally disabled; and
 - (j) residential facility for the mentally ill, provided that the facility shall not be located within 1000 feet of another residential facility for the mentally ill, as measured between lot lines.

1 (2) **MR2, Manufactured Home Park.** The Manufactured Home Park District is intended to create areas for the
2 location of multiple Type III manufactured homes on leased or rented lots. The following uses are permitted in an
3 MR2 District:

4 (a) Type III manufactured home;

5 (b) accessory building, structure, or use;

6 (c) day care (adult or child), class I child care home, adult care home;

7 (d) home occupation; and

8 (e) public park or recreation area, including accessory uses and structures.

9 (G) **CM1, Professional Offices and Personal Services.** The Professional Offices and Personal Services District is intended
10 to provide areas for professional offices, personal services, and similar low intensity nonresidential uses. This district can
11 serve as a buffer between residential uses and higher intensity commercial uses. New residential uses are not permitted in
12 the CM zoning districts. The following uses are permitted in a CM1 District:

13 (1) adoption agency;

14 (2) advertising office;

15 (3) animal grooming (with indoor animal runs only);

16 (4) architect, engineer, land surveyor, or similar office (with no outdoor equipment storage);

17 (5) artist studio or school;

18 (6) bank, credit union, or savings and loan association;

19 (7) barber shop;

20 (8) beauty salon;

21 (9) bed and breakfast establishment;

22 (10) blood donor, or similar facility;

23 (11) child and/or adult care center;

24 (12) chiropractor office;

25 (13) churches, synagogues, and other religious buildings and facilities used for religious assembly;

26 (14) consulting service;

27 (15) counseling service;

(16) credit agency or service;

(17) dance studio or school;

- 1 (18) dating service;
- 2 (19) day care (adult or child), class I and class II child care home, and adult care home (in conjunction with a legally
3 established existing residential use);
- 4 (20) dentist office;
- 5 (21) doctor office;
- 6 (22) finance company;
- 7 (23) funeral home (excluding crematorium);
- 8 (24) home occupation (in conjunction with a legally established existing residential use);
- 9 (25) insurance office;
- 10 (26) interior designer office;
- 11 (27) law office;
- 12 (28) loan office;
- 13 (29) martial arts studio;
- 14 (30) massage therapy establishment;
- 15 (31) medical center or clinic;
- 16 (32) medical related services;
- 17 (33) music studio or school;
- 18 (34) nail salon;
- 19 (35) neighborhood facilities or uses;
- 20 (36) nonprofit private club;
- 21 (37) optician or optometrist office;
- 22 (38) photography studio;
- 23 (39) police station, fire station, or similar public use;
- 24 (40) professional or commercial office not otherwise listed;
- 25 (41) public park or recreation area, including accessory uses and structures;
- 26 (42) public parking area;
- 27 (43) public, parochial, or private elementary, junior, and/or senior high schools;

- (44) real estate, broker, or appraiser office;
- (45) residential facility for the developmentally disabled;
- (46) residential facility for the mentally ill;
- (47) stockbroker office;
- (48) tanning salon; and
- (49) travel agency.

(H) **CM2, Limited Retail and Commercial.** The Limited Retail and Commercial District is intended to provide areas for moderate intensity retail, shopping, business, and service uses. Neighborhood-oriented commercial uses are encouraged. An individual use or tenant space over 30,000 square feet of gross floor area shall not be permitted. Any use which serves alcohol must obtain all required state alcoholic beverage permits and any proposed new facility shall conform with minimum separation requirement from a church or school, as set forth in IC 7.1-3-21-11. The following uses are permitted in a CM2 District:

- (1) all uses permitted in CM1 district;
- (2) animal hospital (indoor animal runs, exercise areas, and training areas only);
- (3) animal kennel (indoor animal runs, exercise areas, and training areas only);
- (4) apparel and accessory store;
- (5) antique shop;
- (6) art gallery;
- (7) artist supply and material store;
- (8) automobile washing facility (full or self service);
- (9) automotive accessory store (new and used, but excluding the sale of used automobile tires as a primary use and any outdoor storage);
- (10) bakery goods, including "outlet" store;
- (11) bar or tavern;
- (12) bicycle sales and repair shop;
- (13) billiard or pool hall;
- (14) bingo establishment;
- (15) book store;
- (16) bowling alley;
- (17) business or trade school (with indoor education/training only);

- 1 (18) card and stationary store;
- 2 (19) catalog showroom (for retail sales);
- 3 (20) caterer;
- 4 (21) clock, watch, and jewelry sales and repair;
- 5 (22) clothing store (new or resale);
- 6 (23) coin shop;
- 7 (24) collection service;
- 8 (25) computer and computer software store;
- 9 (26) computer service or repair;
- 10 (27) confectionery, ice cream; or candy store;
- 11 (28) consignment shop;
- 12 (29) convenience store;
- 13 (30) copy and printing service;
- 14 (31) cosmetic store;
- 15 (32) costume and clothing rental;
- 16 (33) country club;
- 17 (34) craft supply store;
- 18 (35) delicatessen;
- 19 (36) department store;
- 20 (37) diaper service facility;
- 21 (38) dinner theater;
- 22 (39) drugstore;
- 23 (40) dry cleaning store;
- 24 (41) electrical appliance store (new or used);
- 25 (42) fabric shop;
- 26 (43) floor covering store;
- 27 (44) florist;

- (45) fruit and/or vegetable store (indoor only);
- (46) furniture store (new and used);
- (47) funeral home (including crematorium);
- (48) garden equipment supply (excluding outdoor storage);
- (49) gas/service station;
- (50) gift shop;
- (51) gun and retail firearms sales, as an accessory use to a permitted primary use, except that any proposed new facility shall conform with the minimum separation requirement as set forth in IC 35-47-11-2;
- (52) grocery store or supermarket;
- (53) hardware store;
- (54) health and fitness club;
- (55) hobby shop;
- (56) hotel;
- (57) household appliance store (new or used, with no outdoor storage permitted);
- (58) interior decorating store;
- (59) laundromat/coin operated laundry;
- (60) leather goods or luggage store;
- (61) live bait business;
- (62) meat or fish market;
- (63) motel;
- (64) music store;
- (65) musical instrument store (new or used);
- (66) nonprofit private club;
- (67) package liquor store;
- (68) paint store;
- (69) parking structure;
- (70) pet store (including pet supplies);

- (71) photographic supply store;
- (72) picture framing facility;
- (73) public utility customer office;
- (74) recycling collection point;
- (75) rental and/or leasing store (furniture, office equipment, computers, etc.);
- (76) restaurant, including drive-through facilities;
- (77) shoe store;
- (78) shoe repair shop;
- (79) sign sales store;
- (80) sporting goods sales and rentals;
- (81) tailor/alterations shop;
- (82) tanning salon;
- (83) tattoo establishment;
- (84) theater (indoor);
- (85) tobacco/cigar store;
- (86) toy store;
- (87) variety store;
- (88) veterinary clinic;
- (89) video arcade; and
- (90) video rental store.

(I) **CM3, General Commercial.** The General Commercial District is intended to provide areas for a variety of commercial uses including certain high intensity uses not permitted in CM1 and CM2 Districts. Commercial uses in this district often serve the general public and therefore are usually located along major arterial and/or collector roadways. The following uses are permitted in a CM3 District:

- (1) all uses permitted in the CM1 and CM2 Districts;
- (2) animal grooming (with outdoor animal runs);
- (3) animal kennel (with outdoor animal runs);
- (4) archery, golf, or similar range;

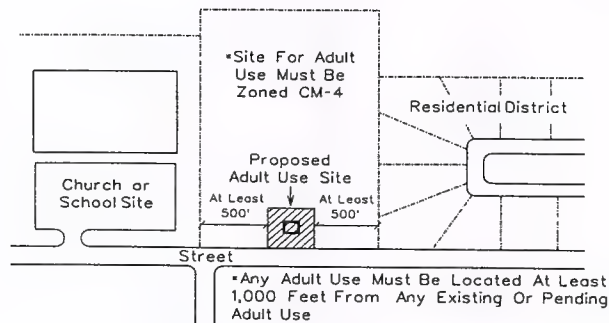
- (5) auction hall (indoor auctions only);
- (6) automobile detailing and trim shop;
- (7) automobile maintenance facility (quick service);
- (8) automobile repair shop;
- (9) automobile restoration;
- (10) automobile sales showroom;
- (11) automobile undercoating and rustproofing service;
- (12) banquet hall;
- (13) boat sales showroom;
- (14) business or trade school;
- (15) commercial greenhouse;
- (16) dance hall;
- (17) exterminating or pest control business;
- (18) flea market (indoor sales only);
- (19) furniture repair or refinishing shop;
- (20) garage/storage shed display and sales lot;
- (21) glass cutting or glazing shop;
- (22) gun shop or retail firearms dealer, as a primary use or accessory use, except that any proposed new facility shall conform with the minimum separation requirement as set forth in IC 35-47-11-2;
- (23) heating and air conditioning sales and service;
- (24) home improvement business;
- (25) ice or roller skating rink (indoor only);
- (26) lawn mower/small engine repair;
- (27) light equipment rental/service;
- (28) used car sales lot;
- (29) motorcycle repair shop;
- (30) motorcycle sales facility;

- (31) night club;
- (32) plumbing, retail sales and repair service;
- (33) rescue or revival mission or similar use;
- (34) retail feed store;
- (35) retail plant nursery;
- (36) riding academy;
- (37) seasonal outdoor retail sales;
- (38) taxidermist; and
- (39) window and screen sales or repair shop.

(J) **CM4, Intensive Commercial.** The Intensive Commercial District is intended to provide areas for high intensity uses not permitted in CM1, CM2 or CM3 Districts. Commercial uses in this district often serve the general public and therefore are usually located along major arterial and/or collector roadways. New CM4 zoning districts shall not be created adjacent to existing residential zoning districts. The following uses are permitted in a CM4 District:

- (1) all uses permitted in a CM3 District;
- (2) adult retail use, provided the use conforms with the following:
 - (a) the property where the use is proposed shall be located at least 500 feet from any existing City AR, MR1, MR2, R1, R2, R3, or RP zoning district, or corresponding agricultural or residential zoning district outside of the jurisdiction of the City of Fort Wayne;
 - (b) the property where the use is proposed shall be located at least 1,000 feet from any existing or pending adult entertainment use property; and
 - (c) the property where the use is proposed shall be located at least 500 feet from any existing or pending church or elementary, junior, or high school property.
- (3) adult cabaret, provided the use conforms with the following:
 - (a) the property where the use is proposed shall be located at least 500 feet from any existing City AR, MR1, MR2, R1, R2, R3, or RP zoning district, or corresponding agricultural or residential zoning district outside of the jurisdiction of the City of Fort Wayne;
 - (b) the property where the use is proposed shall be located at least 1,000 feet from any existing or pending adult use;
 - (c) the property where the use is proposed shall be located at least 500 feet from any existing or pending church or elementary, junior, or high school property; and
 - (d) the owner/operator shall first obtain all required state alcoholic beverage permits prior to the issuance of the Improvement Location Permit and/or Certificate of Compliance for the proposed use.
- (4) adult motion picture theater, as a primary or accessory use, provided the use conforms with the following:

- (a) the property where the use is proposed shall be located at least 500 feet from any existing City AR, MR1, MR2, R1, R2, R3, or RP zoning district, or corresponding agricultural or residential zoning district outside of the jurisdiction of the City of Fort Wayne;
- (b) the property where the use is proposed shall be located at least 1,000 feet from any existing or pending adult use property; and
- (c) the property where the use is proposed shall be located at least 500 feet from any existing or pending church or elementary, junior, or high school property.



Adult Use Separation Requirements

- (5) agricultural equipment sales or service facility;
- (6) agricultural supply store;
- (7) amusement park;
- (8) auction hall (including outdoor auctions);
- (9) automobile body shop;
- (10) betting parlor;
- (11) bottled gas service;
- (12) building materials sales yard, including lumber yard;
- (13) camp ground;
- (14) drive in theater;
- (15) flea market (including outdoor sales);
- (16) fruit and vegetable store (including outdoor sales);
- (17) ice skating rink (outdoor or indoor);
- (18) landscape contracting service;
- (19) light construction equipment rental and/or service;

- (20) manufactured home sales lot;
- (21) miniature golf course;
- (22) pawnshop;
- (23) printing services, including but not limited to: printing press operations, publishing, engraving, and lithographing;
- (24) race track;
- (25) self-service storage (mini-warehouse) facilities;
- (26) sign fabrication shop;
- (27) tree service;
- (28) undercoating and rustproofing shops;
- (29) warehousing, storage and wholesale establishment, including cold storage, provided that all storage is indoors, and the gross floor area of the storage portion of the use is 15,000 square feet or less; and
- (30) woodworking or carpentry shop (retail).

(K) **CM5, Central Business.** The Central Business District is located within the defined “central business district” area and is intended to provide for a range of light to moderate intensity commercial, office, and other similar uses including but not limited to: professional offices, personal services, retail, specialty stores, governmental, and other business uses, as well as higher intensity residential uses. The following uses are permitted in a CM5 District:

- (1) all uses permitted in CM1 and CM2 Districts;
- (2) multiple family dwelling;
- (3) multiple family complex;
- (4) museum or similar public facility;
- (5) night club, or similar entertainment use, excluding adult uses; and
- (6) residential condominium development.

(L) **SC, Shopping Centers.** The Shopping Center Districts are intended to create areas for the provision of adequate commercial facilities at suitable locations and of appropriate design, scale and intensity which will create a functional and compatible relationship with the immediate surroundings and community. It is intended that SC Districts be composed of different tenants and uses that serve the retail needs of the community. A single tenant or use may also exist if it satisfies the intent of the district. New residential uses are not permitted in SC Districts. Prior to tracts of real estate being developed as shopping centers, the proposed development parcel or tracts shall be rezoned to a specific SC District and be subject to the requirements pertaining to that district. In reviewing a proposal for a SC District, the Plan Commission shall consider the nature of the proposed use, the total size of the proposed project and the composition of existing development and zoning in the vicinity of the proposed SC District. Traffic generation, both pedestrian and vehicular, and its impact on surrounding streets and highways will also be considered as part of the Commission’s review process. All proposals in an SC District shall be subject to the provisions and requirements of §157.120 (Development Plans).

- (1) **SC1, Neighborhood Shopping Center.** The Neighborhood Shopping Center District is intended to provide areas for the day-to-day shopping needs of the surrounding residential neighborhoods. Tenants and uses typically found within this type of center include grocery stores, drugstores, restaurants, variety stores, and similar small and medium scale retail uses.
- (a) **Permitted uses** shall include all CM1 and CM2 uses with the following exceptions: hotels, motels, nonprofit private clubs, and bowling alleys. In order to establish neighborhood centers that are compatible with other neighborhood uses, the following additional restrictions shall apply:
- (i) the maximum gross floor area of the shopping center shall not exceed 25% of the net site area, or 100,000 square feet, whichever is less;
 - (ii) a major tenant space shall not exceed 35,000 square feet of gross floor area;
 - (iii) a bar/tavern or billiard/pool hall shall not exceed 5,000 square feet of gross floor area;
 - (iii) up to two major tenants shall be permitted; and
 - (iv) no single tenant space other than the permitted major tenants shall exceed 20,000 square feet.
- (2) **SC2, Community Shopping Center.** The Community Shopping Center District is intended to provide areas which allow access to a greater variety of merchandise and services in addition to serving the function of a neighborhood shopping center. Tenants and uses within this type of center are similar in character to those tenants and uses found within a neighborhood center.
- (a) **Permitted uses** shall include all CM1 and CM2 uses. In order to establish community shopping centers that conform with the intent of this district, the following additional restrictions shall apply:
- (i) the maximum gross floor area of the shopping center shall not exceed 25% of the net site area, or 200,000 square feet, whichever is less;
 - (ii) a major tenant space shall not exceed 70,000 square feet of gross floor area if there is not more than one major tenant; or
 - (iii) up to two major tenants shall be permitted if each tenant space does not exceed 45,000 square feet of gross floor area; and
 - (iv) no single tenant space other than the permitted major tenants shall exceed 40,000 square feet.
- (3) **SC3, Metropolitan Shopping Center.** The Metropolitan Shopping Center District is intended to serve a community of neighborhoods. Tenants and uses typically found in this type of center include retail and service oriented establishments such as department stores, discount stores, specialty stores, and similar medium to large scale retail uses.
- (a) **Permitted uses** shall include all SC2 uses. In order to establish metropolitan shopping centers that conform with the intent of this district, the following additional restrictions shall apply:
- (i) the maximum gross floor area of the shopping center shall not exceed 25% of the net site area, or 300,000 square feet, whichever is less;
 - (ii) a major tenant space shall not exceed 110,000 square feet of gross floor area;
 - (iii) up to two major tenants shall be permitted; and

(iv) no single tenant space other than the permitted major tenants shall exceed 70,000 square feet.

(4) **SC4, Regional Shopping Center.** The Regional Shopping Center District provides complete comparison and competitive shopping. The shopping center provides a wide variety of retail goods and services as well as a number of large, traffic generating uses.

(a) **Permitted uses** shall include all SC3 uses, along with arcades and automobile showrooms. In order to establish regional shopping centers that conform with the intent of this district, the following additional restrictions shall apply:

(i) the maximum gross floor area of the shopping center shall not exceed 25% of the net site area, although the overall site size is not limited;

(ii) tenant space size and the number of major tenants allowed is unlimited; and

(iii) no repair, paint or body work shall be conducted in connection with any automobile showroom and there shall be no storage or display of vehicles outside of the building in a SC4 District.

(5) **Exceptions to SC District requirements:** To allow flexibility in shopping center development, the Plan Commission may grant requests for exceptions or waivers to the district requirements as set forth in §157.120. However, the Commission may not waive the 25% maximum site coverage by buildings or the maximum gross floor area of enclosed space for the entire center as set forth for each district. Exceptions or waivers may be granted as a part of Commission review and approval of a primary or amendment to a primary development plan, if the Commission finds that:

(a) the waiver or exception is in conformance with the purposes and intent of this chapter along with the goals, objectives, and policies of the City Comprehensive Plan;

(b) the applicant has submitted adequate evidence in support of the requested waiver or exception; and

(c) the requested waiver or exception will be compatible with the immediate area, and will not be unduly detrimental to the use and value of the area adjacent to the property included in the request.

(M) **IN1, Limited Industrial.** The Limited Industrial District is intended to provide areas in which goods are produced for direct consumption by consumers. Limited industrial uses typically involve final assembly of goods produced from prepared materials, finished products or parts, or wholesale and/or storage activities. This district is intended for those industries which do not create adverse impacts on surrounding land uses. The IN1 District may serve as a buffer between heavier industrial districts and business or residential districts. Uses must conform with all federal, state and local environmental laws and regulations, including but not limited to air emissions, water discharge, and solid and hazardous waste generation and disposal. New residential uses are not permitted in IN zoning districts. The following uses are permitted in an IN1 District:

(1) all uses permitted in a CM4 District; excluding adult uses;

(2) accessory building and use;

(3) boat dry dock facility;

(4) carpentry, wood working, or cabinet shop;

(5) central dry cleaning plants or laundries;

(6) ceramic pottery, figurines, or other similar ceramic product fabrication;

- (7) creamery and/or dairy;
- (8) electrical receiving and transforming station;
- (9) feed or grain storage;
- (10) machine shops: metal anodizing, buffing, galvanizing, plating and/or polishing shops;
- (11) metal molding and plastic molding and extrusion shops;
- (12) warehouse/distribution facilities for storage, wholesale, and distribution of manufactured products, supplies, and equipment, provided that storage is within an enclosed building (excluding auto wrecking, junk and salvage, automobile tires, scrap materials, or storage of materials that are flammable or explosive or that create hazardous or commonly recognized offensive conditions);
- (13) tool and/or die shop;
- (14) utility service yard; and
- (15) welding shop.

(N) **IN2, General Industrial.** The General Industrial District is intended to provide areas for fabricating, manufacturing, and processing industries where the operation is enclosed within a building and conducted in such a manner that no adverse impacts are created or emitted outside of the building(s). Uses must conform with all federal, state and local environmental laws and regulations including but not limited to air emissions, water discharge, and solid and hazardous waste generation and disposal. The following uses are permitted in an IN2 District:

- (1) all uses permitted in an IN1 District;
- (2) accessory building and use;
- (3) brewing and distilling;
- (4) freight yard, truck yard, or terminal;
- (5) fuel yard, including bulk storage of petroleum products for local distribution, as distinguished from a petroleum products terminal for extensive storage and regional distributing purposes;
- (6) manufacture, compounding, assembling, or treatment of articles or merchandise from previously prepared materials, excluding agricultural implements and machinery, aircraft, automobiles, boats, motorcycles, and recreational vehicles;
- (7) manufacture, compounding, packaging, and processing of pharmaceutical products, household chemicals, cleaning products, ink, glue and sizing, paint, lacquers, shellac, varnish and reducers and removers, tanning materials, tar products and other similar products;
- (8) manufacture of products, art goods, cosmetics and toiletries, baked goods, confections, ice cream, and non-alcoholic beverages, jewelry, clothing and garments, electrical appliances and fixtures, draperies, novelty articles, advertising displays, notions, tobacco products, gauges, jigs, optical goods, luggage and leather products, toys and household supplies, personal accessories, paper, wood, plastic, or rubber molded products;
- (9) manufacture of metal products not otherwise listed which do not involve drop hammer or foundry work;

- (10) manufacture and processing of food products such as, slaughtering, sugar refining, meat or fish processing, custom meat packing or butchering, poultry dressing, and similar processes including smoking, curing, or canning;
- (11) motor vehicle towing service, excluding motor vehicle storage yard;
- (12) recycling facility (excluding outdoor storage); however, any use which meets the definition of a junk and salvage yard shall not be permitted;
- (13) painting of finished products; and
- (14) sheet metal production fabrication, treatment or assembly of products, which does not involve forging, hammer or foundry work.

(O) **IN3, Heavy Industrial.** The Heavy Industrial District is intended to provide areas for intense industrial uses such as fabricating, manufacturing, processing, extraction, heavy repair and dismantling industries where outside operations and storage areas may be required. Due to the nature of these industries, districts are typically located away from residential areas and districts. IN3 Districts should be buffered by less intensive industrial or commercial districts to minimize adverse impacts on surrounding land uses. Uses must conform with all federal, state and local environmental laws and regulations including but not limited to air emissions, water discharge, and solid and hazardous waste generation and disposal. The following uses are permitted in an IN3 District:

- (1) all uses permitted in an IN2 District;
- (2) accessory building and use;
- (3) chemical or gas manufacturing not otherwise listed;
- (4) fabricating, manufacturing and processing industries, not otherwise listed;
- (5) forging, drop hammer, and foundry uses;
- (6) fuel refinery or refining of petroleum products;
- (7) fuel yard for the bulk storage of petroleum products for region-wide distribution;
- (8) leather processing facility/tannery;
- (9) manufacture and/or assembly of agricultural implements and machinery, aircraft, automobiles, boats, motorcycles, recreational vehicles, and any associated parts;
- (10) manufacture of brick, refractories and clay products not otherwise listed;
- (11) manufacture of chemicals not otherwise listed such as ammonia, acetylene, carbide, carbon black, caustic soda, cellulose, fertilizer, hydrogen, nitrates, oxygen, plastics, proxylene, potash, synthetic resins, and turpentine;
- (12) manufacture of ready-mix concrete, plaster, or asphalt;
- (13) manufactured home construction facility;
- (14) metal casing and fabrication, including ferrous metals;
- (15) recycling processing facility (including outdoor storage), however any use which meets the definition of a junk and salvage yard shall not be permitted;

1 (16) sawmill or planing mill for the processing of timber or lumber;

2 (17) tire or rubber manufacturing; and

3 (18) warehouse/distribution facilities for storage, wholesale, and distribution of manufactured products, supplies, and
4 equipment.

5 **§157.106 TEMPORARY STRUCTURES AND USES.**

6 (A) **Temporary accessory structures.** A trailer, mobile unit, or other temporary structure shall be permitted as a temporary
7 accessory structure for any existing school, church or permitted industrial, commercial, or other nonresidential use,
subject to the following requirements:

8 (1) the temporary use shall only be permitted for a period of up to two years;

9 (2) the temporary use must meet the requirements outlined in §157.107 for accessory structures;

10 (3) the proposed temporary use must be approved through the site plan routing review process as outlined in §157.121;
11 and

12 (4) this section shall not apply to temporary facilities used in connection with a construction project, provided the
13 construction is proceeding with reasonable diligence; or to mobile food service units. A tent, or similar structure,
shall not be permitted as a temporary structure under this subsection.

14 (B) **Temporary primary retail structures and uses.** Temporary or seasonal primary retail structures and/or uses shall be
15 permitted as set forth in §157.104 (Permitted Uses). Such structures or uses shall be permitted on a vacant lot or
development parcel, or on a lot or development parcel which has existing primary structure(s) or use(s) for up to sixty 60
16 days total in a twelve (12) month period. Any proposed temporary or seasonal primary retail structure shall conform to
the following requirements:

17 (1) the structure shall conform with all of the applicable standards and requirements of this chapter, including minimum
setback and parking requirements;

18 (2) if the proposed structure does not qualify for a waiver under §157.121(D) (Site Plan Routing Review), the owner or
19 applicant shall obtain approval of the proposal through the site plan routing review process, prior to the issuance of
an Improvement Location Permit;

20 (3) if the proposed structure qualifies for a waiver under §157.121(D) (Site Plan Routing Review), and the structure is
21 144 square feet or more in size, the owner or applicant shall obtain an Improvement Location Permit;

22 (4) if the proposed structure qualifies for a waiver under §157.121(D) (Site Plan Routing Review) and the structure is
less than 144 square feet in size, no Improvement Location Permit shall be required; and

23 (5) this subsection shall not apply to mobile food service units.

24 (C) **Temporary special events.** Temporary special events shall be permitted as an accessory use to an existing permitted
25 commercial, industrial, or other nonresidential use. Temporary special events shall be permitted up to three (3) times per
year, for a period not to exceed seven (7) days per event. Tents, or other similar structures or facilities, shall be permitted
26 in conjunction with the special event. An Improvement Location Permit shall not be required for a tent or similar
structure used in connection with a permitted temporary special event. Festivals or similar events held in public parks
27 shall not be considered temporary special events.

1 (D) **Mobile food service units.**

- 2 (1) A mobile food service unit shall be permitted as a temporary accessory use to an existing permitted commercial
3 (excluding professional office uses), industrial, or other nonresidential use or structure. The unit shall be allowed on
4 a site up to three (3) times in a twelve (12) month period, for up to fourteen (14) days per event, provided the use is
5 first approved by the Fort Wayne - Allen County Department of Health. In the event of a festival or similar use in a
6 public park there shall be no limit on the number of times the unit shall be allowed on the site, however, the unit is
7 limited to 14 days per event and the use must first be approved by the Fort Wayne - Allen County Department of Health.
- 8 (2) A mobile food service unit shall be permitted as a temporary primary use in any zoning district which permits a
9 restaurant. The unit shall be allowed on a site up to three (3) times in a twelve (12) month period, for up to fourteen
10 (14) days per event, provided the use is first approved by the Fort Wayne - Allen County Department of Health.
- 11 (3) A mobile food service unit shall be permitted as a temporary seasonal primary or accessory use in any zoning
12 district which permits a restaurant. The unit shall be allowed on a site for a period of up to four (4) months,
13 provided the use is first approved by the Fort Wayne - Allen County Department of Health and the applicant obtains
14 an Improvement Location Permit. As part of its review of the Improvement Location Permit application, the
15 Planning staff may require the applicant to obtain approval through the site plan routing review process.
- 16 (4) A mobile food service unit shall be permitted as a temporary primary or accessory use in any zoning district which
17 permits a restaurant. The unit shall be allowed on a given site for a period of four (4) to twelve (12) months
18 provided the use is first approved through the City's site plan routing review process, and the applicant obtains an
19 Improvement Location Permit.

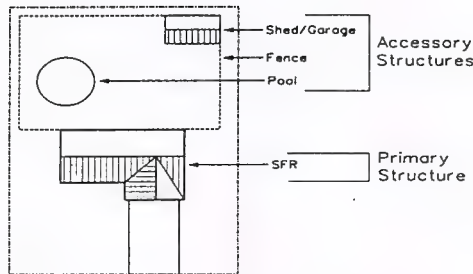
20 §157.107 **ACCESSORY STRUCTURES AND USES.**

21 The purpose of this section is to establish standards for the construction of accessory structures and other construction, such as
22 garages, storage sheds, outbuildings, and other similar residential and nonresidential facilities.

23 (A) **Residential accessory structures.** The following accessory structures shall be permitted, provided the structure meets
24 the definitions in §157.101 and complies with setback, height, lot coverage, location and other standards and limitations
25 set forth in this chapter.

- 26 (1) above-ground and in-ground swimming pools;
- 27 (2) arbors, trellises, or similar construction;
- (3) attached and detached decks or similar construction;
- (4) detached residential garages;
- (5) fences and walls;
- (6) freestanding satellite dishes, amateur radio towers, and television aerials;
- (7) gazebos;
- (8) storage sheds; and
- (9) any other accessory structure which is placed on a permanent foundation.

See §157.223 for Improvement Location Permit requirements.



Accessory and Primary Structures

(B) **Residential accessory uses.** The following residential accessory uses shall be permitted provided the uses meet the definitions in §157.101 and comply with applicable location, setback, and height restrictions:

- (1) swing sets;
- (2) play equipment;
- (3) play houses;
- (4) slab on grade patios; and
- (5) similar residential accessory uses.

An improvement location permit is not required for the accessory uses listed above.

(C) **Residential outdoor display.** In AR, R1, R2, R3, RP, and MR Districts, outdoor display as defined in §157.101 shall be prohibited except for yard and garage sales. Yard, garage, and similar sales on residential properties may be held up to three (3) times in a calendar year, for up to three (3) days per sale.

(D) **Residential outdoor storage.** In any residential district, outdoor storage shall only be permitted if the storage complies with the applicable setback, location, and other standards and limitations set forth in this chapter. Appliances or similar items shall not be stored on unenclosed porches.

(E) **Nonresidential accessory structures.** Non-residential accessory structures as defined in §157.101, shall be permitted provided the structures comply with the applicable setback, height, location, and other standards and limitations set forth in this chapter.

(F) **Nonresidential accessory uses.** Non-residential accessory uses as defined in §157.101 shall be permitted provided the uses comply with the applicable setback, height, and other standards set forth in this subchapter with the following exceptions.

(1) **Outdoor Display.**

- (a) In all CM, SC, and IN Districts, nonresidential outdoor display shall only be permitted if the display complies with the applicable setback, location, and other standards and limitations set forth in this chapter.
- (b) Items, retail goods, or similar materials offered for sale (such as vehicles, equipment, or supplies) must be displayed on a paved or similar surface in accordance with the provisions of the Off-Street Parking subchapter of this chapter.

- (c) Temporary special events shall be permitted as an accessory use to an existing permitted commercial, industrial, or other nonresidential use, in accordance with the provisions of §157.106.

(2) **Outdoor storage.**

- (a) In any commercial or industrial district, outdoor storage shall only be permitted if the storage complies with the applicable setback, location, screening, buffering, and other standards and limitations set forth in this chapter.
- (b) In any commercial or industrial district, the outdoor storage of wrecked, abandoned, dismantled, or inoperable vehicles shall be prohibited, except as an accessory use to a permitted primary use.

§157.108 LOT SIZE REQUIREMENTS.

- (A) **Intent.** No new residential lot shall be created unless the lot conforms with the minimum size and width requirements listed in the following table.

RESIDENTIAL USE LOT SIZE AND WIDTH REQUIREMENTS				
District	Minimum Width at Building Line (ft)	Minimum Lot Area (sq .ft.)	Required Lot Area per Dwelling Unit	
			No. of Units	Sq ft per unit
AR	80'	15,000	1	15,000
R1 and MR1	50'	6,000	1	6,000
R2	50'	6,000	1	6,000
			2	3,000
R3	50'	6,000	1	6,000
			2	3,000
		7,500	3 or more	2,500
RP	60'	7,200	1	7,200
		10,000	2	5,000
		7,500	3 or more	2,500
MR2	50'	5,000	1	5,000

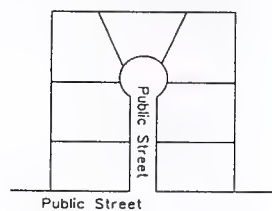
**RESIDENTIAL USE LOT SIZE AND WIDTH
REQUIREMENTS CONTINUED**

CM1, CM2, CM3, CM4, CM5, and IN1*	50'	6,000	1	6,000
			2	3,000
		7,500	3 or more	2,500

*New residential uses must first be approved by the
Board

- (B) **Nonconforming lots.** Lots established by legally recorded plat or otherwise legally established as of March 1, 1955 which do not meet the minimum size requirements established by this section may still be used for any use permitted within the district in which the lot is located. However, all proposed structures shall meet the minimum setback and yard requirements.
- (C) **Waiver of minimum lot width and size requirements.** As part of its review and approval of a primary plat or primary development plan, the Plan Commission or Plat Committee may modify the minimum lot width and size requirements, at the request of the developer/applicant, upon a finding by the Commission pursuant to §157.120(H) of this chapter.
- (D) **Nonresidential lots.** For nonresidential uses, there shall be no minimum lot requirement other than that necessary to meet the applicable provisions of this chapter and the requirements of the Allen County Building Department.
- (E) **Access to public streets.** All residential lots established under the terms and requirements of this section shall have direct access to an improved public street as defined in the Zoning Ordinance for purposes of vehicular traffic, off-street parking, utilities and other services such as mail delivery, garbage collection, fire and emergency units. Other residential access provisions shall be allowed as established by the Commission's rules.

*All Residential Lots Must Have Direct
Access to a Public Street



Direct Access To Public Streets

- (F) **Number of primary structures permitted.** Only one primary residential structure shall be permitted on any lot, tract, or development parcel, except as provided below:
- as part of its review of a primary development plan, the Plan Commission may permit multiple primary residential structures on a lot, tract, or development parcel; and

- (2) in the case of multiple family complexes or similar developments, multiple primary residential structures may be permitted.

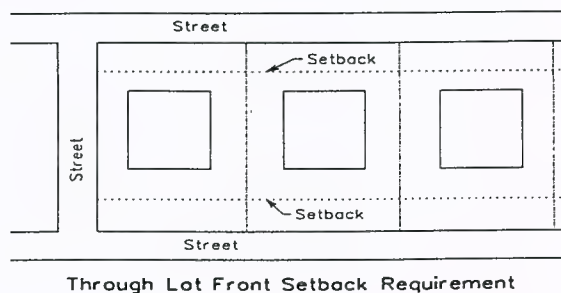
§157.109 YARD REQUIREMENTS.

No building or structure shall be erected, altered, enlarged or reconstructed unless the building or structure conforms with the yard requirements of the district in which it is located, except as permitted in §157.200 through §157.203 (Nonconforming Structures and Uses).

- (A) **Front yard requirements.** There shall be a front yard for each lot, tract, or development parcel; the minimum depth shall be as listed in the following table (subject to the provisions and exceptions noted in this division).

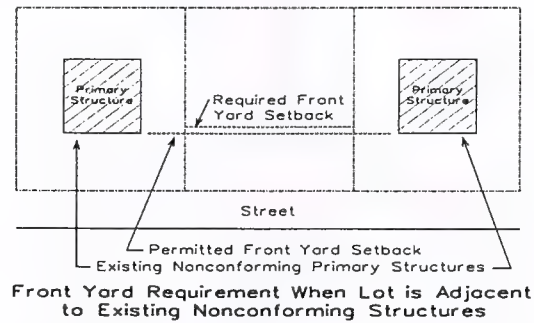
FRONT YARD REQUIREMENTS	
Residential Uses	
District	Depth in Feet
AR, R1, R2, R3, RP, MR1, CM1, CM2, CM3, CM4 and IN1	25'
CM5	none
MR2	8'
Commercial, Industrial & Other Nonresidential Uses	
District	Depth in Feet
AR, R1, R2, R3, RP and MR1	25' or as established by the Board
CM1 and CM2	25'
SC	50'
CM3 and CM4	35'
CM5	none
IN1 and IN2	25'
IN3	50'

- (1) **Front yards on a through lot.** At each end of a through lot there shall be a front yard as established by the requirements of this section for the district in which each street frontage is located. One of those required front yards may serve as a required rear yard for the purposes of locating residential accessory structures and fencing, provided that the lot complies with the restrictions in §§ 157.109(D)(2) and 157.113(E)(4).



(2) **Front yards when adjacent to existing nonconforming primary structures.**

- (a) Where a lot is situated between two lots, each of which has an existing primary structure, which is located closer to the front lot line than the minimum requirement set forth in this section, the required front yard shall be the average of the existing nonconforming front yards on either side.



- (b) Where a lot abuts only one lot having an existing primary structure, the front yard requirement of the lot shall be the average of the front yard of the existing adjacent structure and the required front yard for that district.

- (4) **Platted front yard building lines.** In the event of existing platted front building lines which impose a residential front yard setback requirement which is greater than the minimum setback established by this chapter, a Zoning Enforcement Officer shall require that the larger setback requirement be met, except in nonconforming situations as set forth in division (2) above.

- (5) **Plat and development plan front yard waiver.** As part of its review and approval of a primary plat or primary development plan, the Plan Commission or Plat Committee may waive or modify the minimum front yard requirement at the request of the developer/applicant, upon a finding by the Commission pursuant to §157.120(H) of this chapter.

- (B) **Side yard requirements.** There shall be two side yards for each lot, tract, or development parcel; the minimum widths shall be as listed in the table on the following page.

SIDE YARD REQUIREMENTS

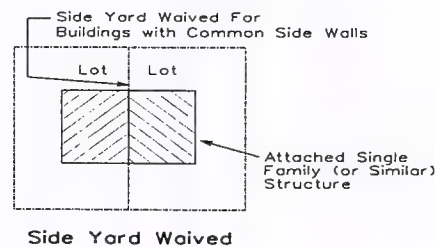
Residential Uses

District	Lot Type	Lot width	Required Side Yard
AR, R1, R2, R3, RP, MR1, CM1, CM2, CM3, CM4 and IN1	Corner	Up to 50'	5'
		Between 50' and 60'	5' interior 15' side street
		60' to 100'	7' interior 20' side street
	Interior	Over 100'	10' interior 25' side street
		Up to 60'	5'
		Between 60' and 100'	7'
		Over 100'	10'
MR2	All lots	All lots	6'

Commercial, Industrial, and Other Nonresidential Uses

District	Lot Type	Lot width	Required Side Yard
AR, R1, R2, R3, RP and MR1	Corner	All lots	10' or as established by the Board/Plan Commission
	Interior	All lots	10' or as established by the Board/Plan Commission
CM1 and CM2	Corner	Up to 55'	10'
		Over 55'	10' 15' internal (If adjacent to a residential district) 15' side street
	Interior	All lots	10' 15' (If adjacent to a residential district)
SC	All lots	All lots	25' or as established by the Plan Commission
CM3 and CM4	Corner	Up to 55'	10'
		Over 55'	10' 15' internal (If adjacent to a residential district) 15' side street
	Interior	All lots	10' 15' (If adjacent to a residential district)
CM5	All lots	All lots	None
IN1 and IN2	All lots	All lots	10' 20' (If adjacent to a residential district)
IN3	All lots	All lots	15' 20' (If adjacent to a residential district)

- (1) **Previously approved nonconforming plats.** Any lot established by a legally recorded plat between the dates of March 1, 1955 and March 31, 1998 with a side yard requirement established by the City of Fort Wayne Plan Commission or the Allen County Plan Commission which is less than these requirements, shall be permitted to be developed for single family residential use. Also, any existing single family residential structure may be enlarged in accordance with the previously established side yard requirements. A Zoning Enforcement Officer may require the applicant or owner to submit adequate documentation verifying the status of the plat and/or involved structure.
- (2) **Side yards waived for dwellings with common walls.** Dwellings with common walls on a lot line (including single family attached residences, duplexes, and triplexes) shall be considered as one building occupying one lot for the purpose of determining side yard setback requirements.

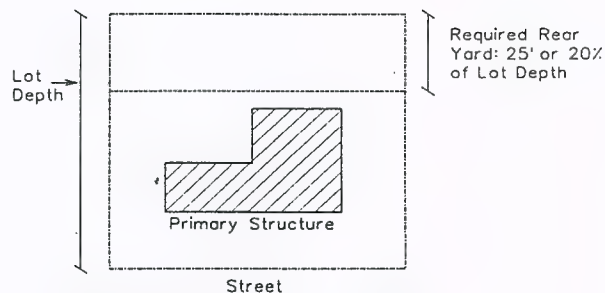


- (3) **Plat and development plan side yard waiver.** As part of its review and approval of a primary plat or primary development plan, the Plan Commission or Plat Committee may waive or modify the minimum side yard requirement at the request of the developer/applicant.

- (C) **Rear yard requirements.** There shall be a rear yard for each lot, tract or development parcel; the minimum depth shall be as listed in the following table.

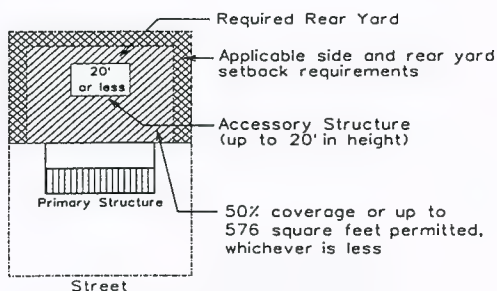
REAR YARD REQUIREMENTS	
Residential Uses	
Districts and/or Uses	Depth
All residential uses, excluding those in MR2 Districts	20% of lot depth, or 25', whichever is less
MR2	8'
Commercial Industrial & Other Nonresidential Uses	
Districts and/or Uses	Depth
Any commercial or industrial use, excluding SC Districts, where the rear yard abuts a residential district	Structures up to 20' in height, 20% of lot depth, or 25' whichever is less.
	Structures over 20' in height, 20% of lot depth, or 30' whichever is less.
Commercial or other nonresidential uses in	10'

CM1, CM2, CM3 and CM4, Districts where the rear yard does not abut a residential district	
Any use in a SC District	40', or as established by the Plan Commission.
Commercial or other nonresidential uses in a CM5 District	None
Commercial, industrial, and other nonresidential uses in IN1, IN2, and IN3 Districts, where the rear yard does not abut a residential district	10'



Residential Rear Yard Requirements

- (1) **Residential accessory structures in the required rear yard.** Residential accessory structures not exceeding 20 feet in height are permitted in a required rear yard. The structure(s) may occupy up to 50% of the area of the required rear yard or be up to 576 square feet in size, whichever is greater.



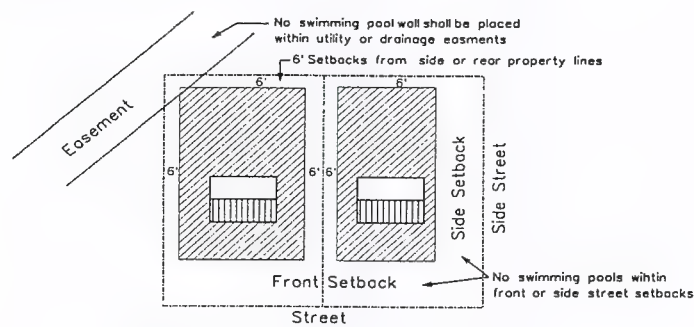
Residential Accessory Structure Rear Yard Coverage Limitation

(2) **Plat and development plan rear yard waiver.** As part of its review and approval of a primary plat or primary development plan, the Plan Commission or Plat Committee may waive or modify the minimum rear yard requirement.

(D) **Yard requirements for accessory structures and uses.** For additional information regarding residential and nonresidential accessory structures and uses see §157.107.

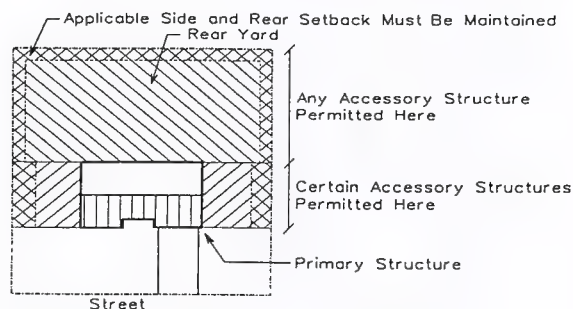
(1) **Residential accessory structures.** Residential accessory structures shall be located between the rear of the main building and the rear lot line. However, detached garages, storage sheds, decks, arbors, residential satellite dishes over one (1) meter in diameter, or other similar structures may be located between the front of the main building and the rear lot line, provided the accessory structure meets the side yard setback requirement established in the section. Residential accessory structures shall be located a minimum of three (3) feet from a side or rear lot line, with the following exceptions.

(a) **Private swimming pools.** A pool wall for a private above or below ground swimming pool shall be located a minimum of six (6) feet from a side or rear lot line.



Swimming Pool Setback Requirements

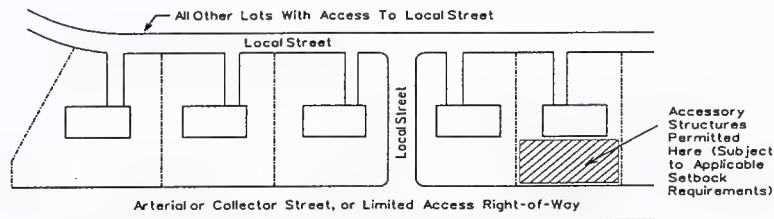
(b) **Satellite dishes.** A satellite dish is permitted as a residential accessory structure subject to the location restrictions noted in division (D)(1) above. However, a residential satellite dish which is less than one (1) meter in diameter may be located as necessary to allow unimpaired reception. A Zoning Enforcement Officer may require adequate documentation in conjunction with a request to locate a residential satellite dish, to show that alternative locations would not allow for unimpaired reception. This exclusion shall not apply in cases involving historic structures, or properties located in local historic districts. The intent of this provision is to allow reasonable accommodation for unimpaired residential satellite dish reception, while at the same time protecting the health, safety, aesthetic quality, and historic character of the City.



Residential Accessory Structure Permitted Locations

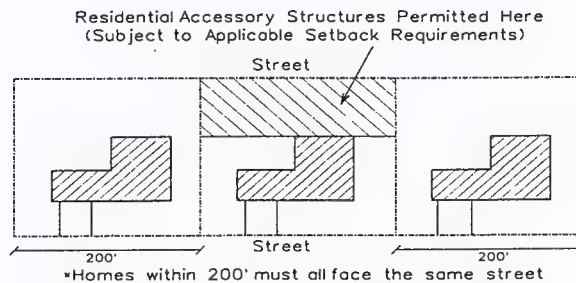
(2) **Residential accessory structures on through lots.** Accessory structures shall be permitted in the required front yard which functions as the rear yard for the lot, subject to the location restrictions listed in (D)(1) above, in the following circumstances:

- (a) if the through lot has a frontage on a street which is classified as an arterial or collector street, and none of the other through lots in that area has access to the arterial or collector street such that those front yards abutting the arterial or collector functions as the rear yard for those lots; or
- (b) if the through lot has frontage on a street which has been declared or purchased as "limited access" right-of-way by the State of Indiana, such that those front yards abutting the limited access right-of-way functions as the rear yard for those lots; or



Residential Accessory Structures On Through Lots

- (c) if the through lot is adjacent to other through lots and all of the homes on the adjacent through lots for a distance of 200 feet from the property lines of the through lot face the same street, such that the front yards abutting that street functions at the rear yard for those lots.



Permitted Through Lot Residential Accessory Structure Locations

- (4) **Residential accessory uses.** Residential accessory uses shall be located between the rear of the primary structure and the rear lot line. However, slab on grade patios may be permitted in a required front or side yard, subject to the limitations in division (E)(1) below.
- (5) **Residential outdoor storage.** In any residential district, outdoor storage shall be prohibited in the required front yard.
- (6) **Nonresidential accessory structures.**

- 1 (a) Nonresidential accessory structures may be located beside a primary structure, provided the accessory structure
2 meets the side and rear yard setback requirement, and is located no closer to the front lot line than the primary
3 structure or the required front yard setback, whichever is less.
- 4 (b) Nonresidential accessory structures may also be located between the rear of the primary structure and the rear
5 lot line, provided the accessory structure is located a minimum of five (5) feet from a side or rear property line,
6 and provided the structure complies with any applicable screening or buffering provisions as set forth in
7 §157.122 of this chapter.

8 **(7) Nonresidential outdoor display.**

- 9 (a) In all CM and IN Districts, outdoor display shall not be permitted within the required front yard, or between
10 the leading edge of any existing primary structure and the front property line, whichever distance is less;
11 except in conjunction with the following uses when permitted in that district. However, outdoor display shall
12 be permitted in the required side and rear yards as an accessory use that is clearly incidental to a permitted
13 primary use.
- 14 (i) agricultural implement sales;
 - 15 (ii) building material sales yard;
 - 16 (iii) cemetery monument sales;
 - 17 (iv) department store with seasonal outdoor retail sales;
 - 18 (v) hardware store;
 - 19 (vi) lawn and garden store;
 - 20 (vii) light equipment rental/service;
 - 21 (viii) motorized vehicle sales;
 - 22 (ix) open lot Christmas tree sales, or other similar seasonal outdoor retail sales;
 - 23 (x) plant nurseries, or greenhouses;
 - 24 (xi) recreational vehicle sales, including boats, trailers and mobile home sales;
 - 25 (xii) retail feed store;
 - 26 (xiii) service stations, including automobile accessory stores, and similar automotive uses; and
 - 27 (xiv) similar retail uses.
- (b) In all SC Districts, outdoor display shall be prohibited within 50 feet of any perimeter property line of that district.
- (c) On a corner lot, outdoor display shall not be permitted within the required side yard which abuts the side street.

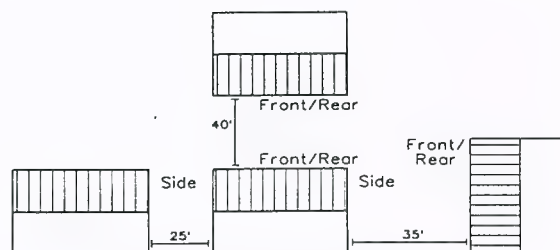
(8) Nonresidential outdoor storage.

- (a) In any commercial or industrial district, outdoor storage shall not be permitted in any required front yard, or between the leading edge of any existing primary structure and the front property line.
- (b) On an interior lot outdoor storage may be permitted in a required side or rear yard if contained within an approved screen meeting the requirements of §157.122.
- (c) On a corner lot, outdoor storage shall not be permitted within the required side yard that abuts the side street. Permitted outdoor storage shall be contained within an approved screen meeting the requirements of §157.122.
- (d) In any commercial or industrial district, any automobile repair shop, body shop, or similar use which stores over ten (10) vehicles overnight shall screen the vehicle storage area as set forth in §157.122. The vehicle storage area may only be located within a side or rear yard.
- (e) The outdoor storage of wrecked, dismantled, or inoperable vehicles shall only be permitted as a short-term (up to 30 days) accessory use to a permitted automobile repair shop, body shop, or similar use

(E) Building separation requirements for multiple family complexes.

- (1) No building in a multiple family complex shall be located closer than 25 feet to any property line in the case of a one-story building, or closer than 30 feet to any property line in the case of a building over one-story in height.
- (2) No building in a multiple family complex shall be located closer to other buildings in the complex than specified in the table below.

MULTIPLE FAMILY COMPLEX INTERNAL BUILDING SEPARATION REQUIREMENTS	
Situation of building	Minimum building separation
From the front or rear of a building, to the front or rear of an adjacent building	40'
From the front or rear of a building, to the side of an adjacent building	35'
From the side of a building to the side of an adjacent building	25'



Multiple Family Complex Internal Building Separation Requirements

- (3) As part of its review and approval of a primary development plan for a multiple family complex, the Plan Commission may waive or modify the minimum setback and building separation requirements.

(F) Corner visibility and other visibility standards.

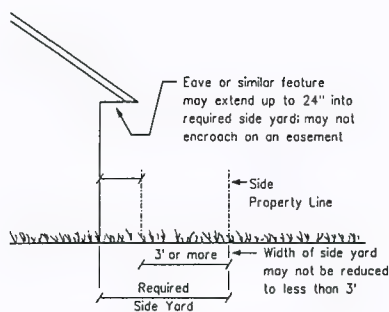
- (a) No structure shall be erected on that part of a corner lot bounded by the lines of intersecting streets and a line joining them at a point 40 feet distant from the intersection of the extended street lines, in a manner which would impede vision between a height of three (3) and eight (8) feet.
- (b) No structure shall be erected on that triangular part of a lot bounded by the lines of the intersection of a street and an alley, in a manner which would impede vision between a height of three (3) and eight (8) feet. Distances shall be measured back from the intersection of the extended street and alley lines in accordance with the standards of the Board of Public Works. This standard may also be applied to the intersection of a driveway and street, if it is determined that a traffic safety hazard exists or would be created.

(G) Exceptions to yard requirements.

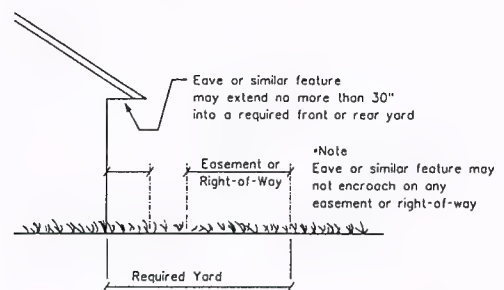
- (1) **Automatic teller machines and canopies.** Automatic teller machines, canopies and similar structures shall be permitted in a required front or side yard as a permitted primary or accessory structure in any district where the use is permitted. A ten (10) foot minimum setback from any property or right of way line shall be maintained.
- (2) **Projections into yards.** The following structures, buildings, or other construction shall be permitted to project into any required or existing front, side and rear yard as specified in the following table.

YARD PROJECTIONS			
Uses	Front	Side	Rear
Cornice, eave, overhang, belt course, sill, awning, or similar architectural feature	30"	Up to 24" (however, a 3' minimum side yard must be maintained)	30"
Chimney or fireplace	2'	Up to 2' (however, a 3' minimum side yard must be maintained)	2'
Fire escape	4'	4'	4'
Handicapped ramps of up to 100 square feet	4'	Up to 4' (however, a 3' minimum side yard must be maintained)	4'
Open stairway or balcony (unenclosed with no roof or canopy)	30"	Not permitted to project	4'
Open porch, platform, landing, or deck (cannot extend above level of first	6'	Up to 4' (however, a 3' minimum side	10'

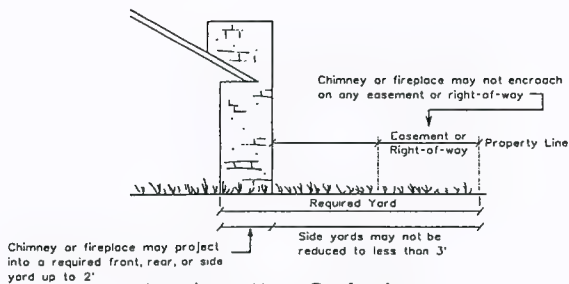
floor of the building)		yard must be maintained)	
Slab on grade patio	6'	Up to 4' (however, a 3' minimum side yard must be maintained)	20'
Cantilever bay window (or similar projection)	2'	Not permitted to project	2'



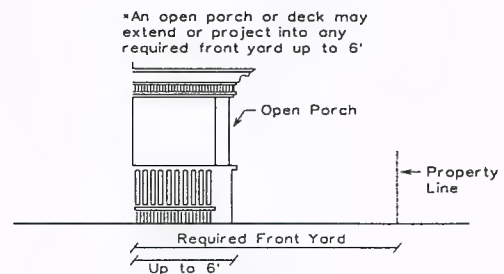
**Permitted Yard Projections
(Eave in Side Yard)**



**Permitted Yard Projections
(Eave into Front or Rear Yard)**



**Permitted Yard Projections
(Chimneys and Fireplaces)**



**Permitted Yard Projections
(Porch or Deck into Front Yard)**

(3) **Additional exceptions to yard projection requirements.** The following elements or items shall be permitted in any required front, side or rear yard:

- (a) trees, shrubs, flowers, or plants shall be permitted, provided they do not violate the provisions for corner visibility setbacks as required in this section; and
- (b) basketball goals and backboards (including supporting poles), bird baths, curbs, driveways, holiday decorations, lamp posts, mailboxes, name plates, retaining walls, sidewalks, trellises, yard ornaments, and other similar structures, provided they do not violate the provisions for corner visibility setbacks as required in this section.

§157.110 LOT COVERAGE.

Residential buildings or structures, including accessory buildings or structures, shall not be erected, altered, enlarged or reconstructed to exceed the maximum lot coverage established for the district as listed in the table below. The area of open porches, decks, swimming pools, patios, satellite dishes, or similar structures and construction shall not be included in the calculation of lot coverage.

RESIDENTIAL LOT COVERAGE	
District	Maximum Coverage
Residential uses in AR, R1, R2, R3, MR1, CM1, CM2, CM3, CM4, CM5, and IN1	30% of lot area or 2,000 square feet, whichever is greater
Residential uses in RP	25% of lot area
Residential uses in MR2	30% of lot area

§157.111 RESIDENTIAL BUILDING SIZE.

No primary residential building or structure shall be erected, altered, enlarged or reconstructed for residential purposes having a ground floor area, exclusive of terraces, breezeways, unenclosed porches and garages, of less than the minimum established in the following table.

RESIDENTIAL BUILDING SIZE		
District	Dwelling Units	Square Footage Per Unit
AR, R1 and MR1	1	950
R2	1	950
	2	540
R3 and RP	1	950
	2	540
	3 or more units	540
MR2	1	540
All other districts	Same requirements as R3 and RP District	

(A) **Exceptions to residential building size requirements.**

- (1) Existing structures which do not meet the minimum residential building size requirements may continue to be used, and may be enlarged, added to, maintained, and repaired in accordance with the provisions of this chapter.
- (2) Vacant residential lots established by a legally recorded plat or other legally established parcel prior to March 1, 1955 which do not meet the minimum lot size requirements set forth in this chapter may be developed with single family structures having a minimum ground floor area of 672 square feet.

§157.112 HEIGHT LIMITATIONS.

(A) **Intent.** No building or structure shall be erected, altered, enlarged or reconstructed to exceed the height limit established for the district where the building or structure is located, as shown in the following table.

MAXIMUM BUILDING/STRUCTURE HEIGHT	
District	Maximum Height (feet)
AR, R1, R2 and MR1	30' if the lot width is under 100'
	35' if the lot width is 100' or more
R3	30' single or two family if the lot width is under 100'
	35' single or two family if the lot width is 100' or more
	40' multiple family
RP	30' single or two family if the lot width is under 100'
	35' single or two family if the lot width is 100' or more
	40' multiple family
MR2	20'
CM1, CM2, SC and IN1	35'
CM3, CM4 and IN2	50'
CM5	400'
IN3	75'

(B) **Exception to height limitations.** The following structures, buildings, or other construction shall be permitted to be erected above the height limits established in this section:

- (1) flagpoles, chimneys, smokestacks, or steeples;
- (2) parapet or fire walls;
- (3) residential television aerials, amateur radio antennas, satellite dishes, or similar structures or facilities; and
- (4) roof structures or similar structures for the housing of mechanical, electrical, ventilating, or similar equipment required to operate or maintain the structure.

1 (C) **Sign height limitations.** The maximum height for freestanding signs shall be as set forth in chapter 154 of City Code
(Sign Ordinance).

2 (D) **Waiver of height limitations.** As part of its review of a proposed primary plat or development plan, the Plan
3 Commission may waive or modify the maximum building or structure height limitations.

4 **§157.113 FENCES AND WALLS.**

5 (A) **Purpose.** The purpose of this section is to provide standards for the placement and erection of fences, walls, hedges and
6 similar construction or elements for the conservation and protection of property; the assurance of safety, security, and
7 privacy; and the improvement of the visual environment, including the provision of an orderly appearance in keeping
with neighborhood character.

8 (B) **Permits.** Except as noted below, no person shall erect a fence or wall without obtaining an Improvement Location
9 Permit from the Division of Community and Economic Development. All applications for fence or wall permits shall be
accompanied by an overall plot plan for the lot, together with the location, material, and height of the proposed fence(s)
or wall(s). A permit shall not be required for the following:

- 10 (1) a retaining wall, hedge, or other planting;
- 11 (2) a corner boundary markers that are no greater than four (4) feet in height and extend no more than eight (8) feet
12 from the corner in two directions along the property line; and
- 13 (3) temporary construction fences, or similar fences installed to provide for temporary site security and/or safety.

14 (C) **Materials and maintenance.**

15 (1) **Permitted materials.** All fences shall be constructed of customarily used materials such as woven wire, chain link,
16 welded wire mesh, masonry, wrought iron, wood, polyvinylchloride (PVC), or similar fencing material. The use of
materials such as corrugated or sheet metal, chicken wire, temporary construction fencing, snow fencing or other
similar materials shall not be permitted for permanent fencing.

17 (2) **Prohibited materials.** In residential and commercial districts, or areas abutting residential or commercial districts,
18 a fence or wall may not be designed to cause pain or injury to humans or animals. This includes the use of spikes,
broken glass, barbed wire, razor wire, nails, electric charge or similar materials. For the purposes of this provision,
19 "abutting" shall include any area separated from a residential or commercial district by an alley right-of-way.

20 (3) **Construction and maintenance.** Fences and walls shall be constructed in a sound and sturdy manner, according to
21 standard construction practices, and shall be maintained in a good state of repair, including the replacement of
defective parts, painting, and other acts required for maintenance.

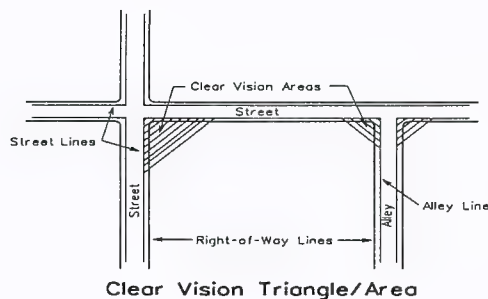
22 (D) **Location and height standards.**

23 (1) **Residential fences.** Except as provided below, a fence, wall, or retaining wall, not exceeding seven (7) feet in height
24 may be located in any required rear or side yard, but shall not be permitted in any required front yard. Individual
posts and/or decorative features such as arbors, trellises, gate caps, and similar features shall be permitted up to eight
25 (8) feet in height. The fence or wall shall not be located any closer to the public right-of-way than the leading edge
of the foundation of a legally established primary structure or the required front yard setback, whichever is less. This
26 shall include the closest point on an open or enclosed porch, if the porch is constructed on a foundation similar to the
foundation of the house.

(2) **Commercial, industrial, and other nonresidential fences.** A fence, wall, or retaining wall, not exceeding eight (8) feet in height may be located in any required rear or side yard, but shall not be permitted in any required front yard. If there is no required front yard, the fence shall not be located any closer to the public right-of-way than the leading edge of the foundation of any existing primary structure.

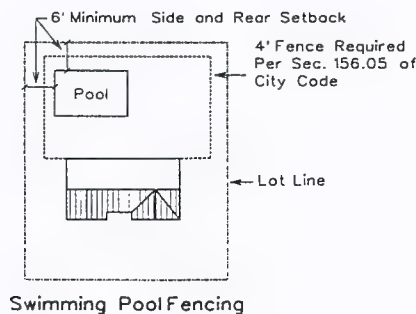
(3) **Corner visibility and other visibility standards.**

- (a) No fence, wall, retaining wall, hedge, or other planting shall be erected, placed, planted or allowed to grow, on that part of a corner lot bounded by the lines of intersecting streets and a line joining them at a point 40 feet distant from the intersection of the extended street lines, in a manner which would impede vision between a height of three (3) and eight (8) feet.
- (b) No fence, wall, retaining wall, hedge, or other planting shall be erected, placed, planted, or allowed to grow, on that triangular part of a lot bounded by the lines of the intersection of a street and an alley, in a manner which would impede vision between a height of three (3) and eight (8) feet. Distances shall be measured back from the intersection of the extended street and alley lines in accordance with the standards of the Board of Public Works. This standard may also be applied to the intersection of a driveway and street, if it is determined that a traffic safety hazard exists or would be created.



- (c) In addition to meeting the requirements in sections (a) and (b) above, no solid wood or other opaque fence on a corner lot shall be located less than three (3) feet from the side property line which abuts a public right-of-way.

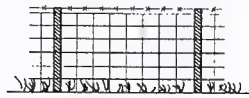
(4) **Swimming pool fencing.** Any pool which meets the definition set forth in §56.01 of the City Code must be completely surrounded by a fence in accordance with §56.05 of the City Code.



(E) Exceptions to requirements.

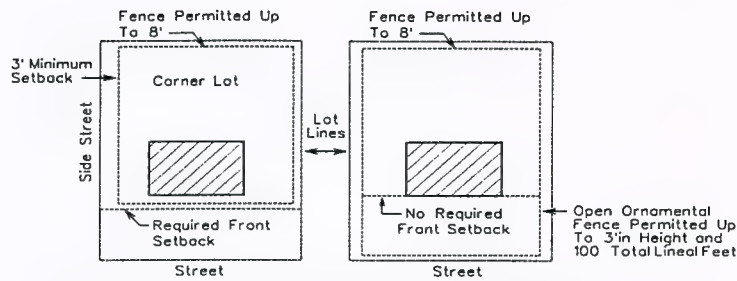
- (1) Agricultural fencing. A fence, wall, or retaining wall, not exceeding five (5) feet in height may be located in a required front yard, subject to the corner visibility provisions in division (D)(3) above, for agricultural uses over ten (10) acres in size. A single strand of barbed wire shall also be permitted as a fencing material in conjunction with a permitted agricultural livestock use or operation.

*A single strand of barbed wire
may be used in conjunction with
a permitted agricultural livestock use

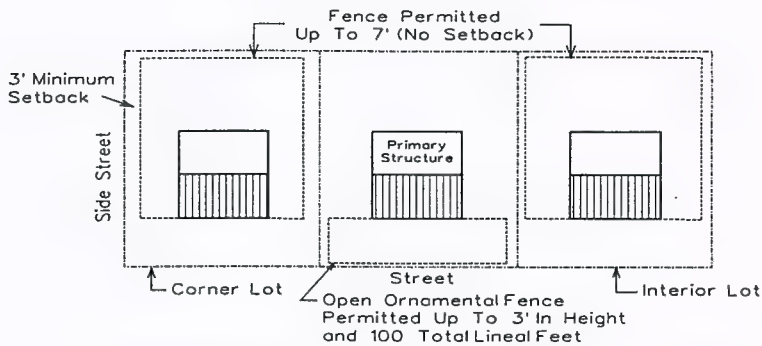


Agricultural Fence

- (2) If a fence or other screening is required to comply with the provisions of the parking lot improvement section, the provisions of that section shall supersede this section, except for the corner visibility provisions in division (D)(3) above.
- (3) A hedge or retaining wall not exceeding three (3) feet in height above the grade of the adjacent sidewalk or ground, may be located in the required front yard with no minimum setback, subject to the corner visibility provisions in division (D)(3) above.
- (4) An ornamental fence, as defined herein, not exceeding three (3) feet in height or 100 total lineal feet may be located in the required front yard with no minimum setback, subject to the corner visibility provisions in division (D)(3) above.
- (5) Residential through lots. A fence, wall, or retaining wall up to seven (7) feet in height shall be permitted in the required front yard, subject to the corner visibility provisions in division (D)(3) above, on a through lot in the following circumstances:
- (a) if the through lot has a frontage on a street which is classified as an arterial or collector street, and none of the other through lots in that area has access to the arterial or collector street such that those front yards abutting the arterial or collector functions as the rear yard for those lots; or
 - (b) if the through lot has frontage on a street which has been declared or purchased as "limited access" right-of-way by the State of Indiana, such that those front yards abutting the limited access right-of-way functions as the rear yard for those lots; or
 - (c) if the through lot is adjacent to other through lots and all of the homes on the adjacent through lots for a distance of 200 feet from the property lines of the through lot face the same street, such that the front yards abutting that street functions as the rear yard for those lots.



**Commercial, Industrial, and Other Nonresidential
Fence Standards (Location and Height)**



Residential Fence Standards (Location and Height)

- (F) **Waiver of requirements.** As part of its review of a proposed primary plat or development plan, the Plan Commission may waive or modify the requirements of this section.

SITE PLAN REVIEW STANDARDS AND REQUIREMENTS

§157.120 DEVELOPMENT PLANS.

- (A) **Purpose.** The purpose of this section is to:

- (1) designate zoning districts in which a development plan is required;
- (2) designate development proposals which require the submission of a development plan;
- (3) establish plan documentation and supporting information that must be submitted to allow for the review and action on a development plan;
- (4) establish development requirements that must be satisfied before the Plan Commission or its designated representative may approve a development plan;
- (5) establish procedures for the submission and review of a development plan;

- (6) establish development requirements which may be waived, along with procedures and conditions for the granting of waivers by the Plan Commission or its designated representative, as part of the review and consideration of a development plan;
- (7) establish procedures and conditions to allow the Plan Commission to delegate the responsibility for the review and action on certain development plans to the Planning staff; and
- (8) establish procedures and conditions to allow for the waiver of the development plan requirement.

(B) **Intent.** The intent of requiring development plan submission and review is to:

- (1) promote and encourage quality development which has a positive impact on surrounding land uses and the overall community;
- (2) allow for public, Plan Commission and City staff review of and input on certain development proposals. This input may include comments and recommendations on the following issues:
 - (a) the compatibility of the proposed development with surrounding zoning and land uses;
 - (b) the availability, coordination, and adequacy of water, sanitary sewer, storm water drainage, and other utilities and/or facilities proposed to serve the development;
 - (c) traffic and transportation safety, roadway capacity, and traffic congestion in the immediate vicinity of the proposed development site;
 - (d) proposed entrance locations, street facilities, roadway improvements, and internal traffic circulation patterns;
 - (e) proposed signage, pedestrian circulation facilities, recreation space and facilities, outdoor lighting, landscaping, buffering, and screening; and
 - (f) the relationship between the design of the proposed development and public safety issues such as fire safety and crime prevention.

(C) **Zoning districts requiring development plan approval.** The development proposals listed in division (D) below located in the following zoning districts shall carry with them a requirement for the submission, review, and approval of a development plan in accordance with the procedures and requirements of this subchapter.

- (1) Proposals located in R3, RP and MR1 Districts, as further set forth in division (D) below.
- (2) Proposals in CM1, CM2, CM3, CM4, and CM5 Districts, if the property where the development is proposed to be located is adjacent to an existing residential land use or vacant residentially zoned property. This shall include development proposals for a portion of a tract or development parcel where the overall parcel is adjacent to an existing residential land use or vacant residentially zoned property. For the purposes of this section, "adjacent" shall also include any property which is located directly across from the development site boundaries, and separated by a public right-of-way of 60 feet or less in width. "Existing residential land use" shall include:
 - (a) a lot or residential dwelling unit in a platted subdivision in a residential zoning district;
 - (b) an individual single or two family residence in a residential zoning district;
 - (c) an apartment or multiple family structure or complex; and

(d) a manufactured home park or subdivision.

(3) Proposals located in SC1, SC2, SC3, and SC4 Districts, as further set forth in division (D) below.

(4) Proposals located in IN1, IN2, and IN3 Districts, if the property where the development is proposed to be located is within 300 feet of an existing residential land use or vacant residentially zoned property.

(D) **Proposals requiring development plan approval.** If the development request is located in a zoning district as specified in division (C) above, the following proposals shall require the submission and approval of a development plan, according to the procedures set forth in this section.

(1) **Residential proposals as follows:**

(a) multiple family complexes;

(b) residential condominium developments;

(c) manufactured home parks which are not proposed to be platted;

(d) single family residential subdivision projects which do not meet the requirements of §157.022(A) of the Subdivision Control Ordinance, or do not meet the requirements of §157.109 of the Zoning Ordinance; and

(e) other similar multiple lot single family residential projects which do not meet the requirements of §157.022(A) of the Subdivision Control Ordinance, or do not meet the requirements of §157.109 of the Zoning Ordinance.

(2) **Commercial and industrial proposals which meet the following:**

(a) any proposal for a new primary commercial structure which is over 3,000 square feet gross floor area in size; or

(b) any proposal for a new primary industrial structure which is over 10,000 square feet gross floor area in size; or

(c) any proposal for a new commercial or industrial development involving multiple lots/development parcels where the overall project area is over two acres in size; or

(d) any proposed addition to an primary commercial or industrial structure which increases the gross floor area of the structure by over 50% or any addition over 50,000 square feet; or

(e) commercial, industrial, or other nonresidential condominium developments; or

(f) any proposal for a new shopping center, or expansion of an existing shopping center or development in a SC District which constitutes a substantial change to a previously approved plan or development; or

(g) in addition to the provisions above, an applicant or property owner may choose to voluntarily submit a commercial and/or industrial project or development through the development plan process if the nature of the proposed development would justify such a submission.

(3) **Proposals for other nonresidential uses or projects which meet the following:**

(a) a new police station, fire station, or similar public use proposed to be located on property adjacent to an existing residential land use (as set forth in division (C)(2) above) or vacant residentially zoned property; or

- (b) a new church, synagogue, or other religious building or facility used for religious assembly over 10,000 square feet in size which is proposed to be located on property adjacent to an existing residential land use (as set forth in division (C)(2) above) or vacant residentially zoned property; or
- (c) as part of its consideration and approval of a request for a contingent use, special use, or use variance, the Board of Zoning Appeals may require the submission and approval of a development plan, or
- (d) in addition to the provisions above, an applicant or property owner may choose to voluntarily submit a nonresidential project or development through the development plan process, if the nature of the proposed development would justify such a submission.

(E) Waiver of required development plan.

- (1) In any case where this chapter requires the submission of a development plan, an applicant or property owner may request that the development plan requirement be waived by a Zoning Enforcement Officer. To request a waiver, the applicant/owner shall submit a written request setting forth the reasons why a waiver should be granted. In reviewing the request, a Zoning Enforcement Officer shall consider the following:
 - (a) the size of the property;
 - (b) the character and condition of existing structures on the property;
 - (c) the existing zoning and development patterns in the vicinity of the site;
 - (e) the size, site layout, and potential impact of the proposal on surrounding land uses;
 - (f) the location and proximity of existing residential zoning and/or land uses relative to the development site;
 - (g) the benefit of public input of the development proposal; and
 - (h) the need for Plan Commission review of the development proposal.
- (2) Upon receiving a request for a waiver of a required development plan, a Zoning Enforcement Officer shall review and either approve or deny the request. A Zoning Enforcement Officer shall notify the applicant of the action and reasons for the approval or denial.
- (3) If a waiver of the development plan requirement is granted, the development proposal shall be reviewed according to the provisions of §157.121 (Site Plan Routing Review).
- (4) Any person aggrieved by a decision of a Zoning Enforcement Officer with regard to a request for a waiver of a required development plan may appeal that decision to the Board of Zoning Appeals.

(F) Primary development plan procedures.

- (1) **Pre-application discussion.** Prior to the submission of an application for approval of a primary development plan, a pre-application discussion between the Planning staff and the developer is required. The purpose of the pre-application discussion is as follows:
 - (a) to acquaint the applicant with the standards, procedures, and requirements of this chapter, the comprehensive plan, and any other applicable plans, ordinances, or laws;
 - (b) to review the intent of the development plan procedures and application requirements; and

(c) to make the applicant familiar with any potential issues or problems regarding the specific site or surrounding area.

(2) **Application.** To apply for a primary development plan approval, an application form must be completed and required plans submitted along with the appropriate filing fee. The application form for a primary development plan shall be signed by the owner of record of the real estate included in the development plan. Complete submissions shall be placed on the Plan Commission's agenda for the next available public hearing. The Planning staff shall provide notice in accordance with the rules of the Commission and IC 5-3-1. The Commission shall adopt filing fees, filing deadlines, meeting dates, and a hearing procedure for this process by rule.

(3) **Primary development plan submission requirements.** All development plans submitted for primary approval shall contain the items listed below if applicable. It is intended that the primary development plan show the overall concept for the proposed development, with additional engineering and site design information as necessary to allow for an adequate preliminary review. Applications shall be accepted and reviewed only when all of the required information is submitted. The development plan shall be drawn at a scale of not less than one (1) inch equals 100 feet on a 24 by 36 inch sheet, unless the size of the proposed project requires a different scale or sheet size. The plan shall be prepared and certified by a licensed architect, engineer or land surveyor. The following items must be included on the development plan unless otherwise determined by the Planning staff:

- (a) date, north arrow, scale and proposed name of the development;
- (b) name, address, and phone numbers of the developer(s), and the land surveyor, architect or engineer who prepared the development plan;
- (c) legal description of the parcel(s) included in the development plan and location and/or layout of property boundary lines and dimensions;
- (d) existing and proposed structures within the development plan;
- (e) any proposed subdivisions of individual parcels, showing proposed parcel numbers and dimensions, if applicable;
- (f) the existing public sanitary sewer, storm sewer, and water lines, showing all sizes;
- (g) the point(s) of connection to existing sanitary sewer, storm sewer and water facilities;
- (h) the proposed location and general sizes of any public sanitary sewer, storm sewer, and water lines;
- (i) the existing contours at vertical intervals of two (2) feet or less, unless the slope of the property requires the use of a larger contour interval;
- (j) proposed storm water drainage flow lines, including retention/detention area locations (if needed);
- (k) proposed street and site light fixture locations;
- (l) any existing or proposed public streets, including proposed names and right-of-way widths;
- (m) location of proposed vehicular access points;
- (n) the location of the floodplain of the regulatory flood, based on the Flood Insurance Rate Maps for Allen County, if applicable;

- (o) the location of any wetlands according to the National Wetland Inventory Maps, and other natural areas such as woodland, streams, drainage ways, existing trees and significant site vegetation, and ponds, if applicable;
 - (p) the proposed treatment of the perimeter of the site, including landscaping, screening, buffering, and fencing proposals;
 - (q) generalized proposals for site and parking area landscaping, screening, and buffering;
 - (r) any common areas, including proposed recreation amenities;
 - (s) existing parks and/or recreation areas adjacent to the development plan;
 - (t) existing and proposed sidewalk locations;
 - (u) proposed sign locations and sign types;
 - (v) off-street parking areas, service areas, loading areas, and points of access to public right-of-ways;
 - (w) the existing streets, public ways, railroad or utility easements adjacent to the development plan site, showing all widths and types;
 - (x) all existing or proposed easements, showing widths and types; and
 - (y) areas to be used for the outdoor storage or display of materials, merchandise, machinery, or other such items.
- (4) **Additional submission requirements.** In addition to the development plan document, the following information shall be submitted:
- (a) quantitative data for the proposed number and type of structures;
 - (b) where applicable, quantitative data indicating the gross residential density and type of dwelling units;
 - (c) statements identifying the intended means of assuring permanency, continuance and maintenance of all common areas or open/recreation spaces to be dedicated for use by residents/tenants of the development and/or general public, where applicable; and
 - (d) a copy of any proposed restrictive covenants.
- (5) **Plan Commission public hearing.** The Plan Commission shall hold a public hearing on any primary development plan request, in accordance with the Commission's established public hearing calendar and rules.
- (6) **Plan Commission review standards.** As part of its review of a primary development plan, the Commission shall consider the plan against the following standards:
- (a) the purpose and intent of this subchapter;
 - (b) the goals, objectives and policies of the City's comprehensive plan and thoroughfare plan; and
 - (c) the purposes set forth in IC 36-7-4-601(c) and the standards listed in IC 35-7-4-1405.
- (7) **Decision of the Plan Commission.** At the next regular business session following the public hearing, the Commission shall approve, with or without conditions, or deny the proposed development plan. The Commission may also defer action on the proposed development plan if it needs more information or time to determine if the

development plan is eligible for approval. In deferring action on a primary development plan, the Commission shall notify the applicant in writing of the reasons for the deferral, in accordance with the rules of the Commission. The following standards and requirements shall also apply to the Commission's decision on a primary development plan.

- (a) Conditional approval. The Commission may place conditions on its approval of a primary development plan if the conditions are reasonably necessary to satisfy the development requirements of this subchapter.
- (b) Findings. The Commission shall enter written findings, setting forth the reasons for its action on a primary development plan request. The findings shall be signed by the Commission's secretary.
- (c) Notice of decision. Notice of the Commission's decision on a primary development plan shall be provided by furnishing a copy of its decision and findings to the applicant and any interested party as established by rule.
- (d) Appeal of decision. A decision of the Commission on a primary development plan may be reviewed by certiorari procedure, as provided in IC 36-7-4-1016.
- (e) Period of valid approval. Primary approval of the development plan by the Commission is valid for twelve (12) months from the date of approval. Within this twelve (12) month period, the applicant may ask the Commission for an extension of time to apply for secondary approval. If the applicant does not apply for secondary development plan approval for any part of the development within the twelve (12) month period, or any approved extension of time, then the primary approval shall lapse and be considered null and void. Once a secondary development plan has been submitted and approved for at least a portion of the primary development plan, subsequent secondary submissions which were part of the same approved primary development plan shall not be constrained by time.

- (8) **Written Commitments.** As part of its approval of a primary development plan, the Plan Commission may permit or require the owner of the property included in the request to make a written commitment concerning the use or development of that property, in accordance with IC 36-7-4-613, the applicable provisions of §157.120(C), and the Commission's rules.

(G) **Development plan design standards.** In order to carry out the purposes and intent of this section, along with the goals, objectives, and policies of the City Comprehensive Plan, all development plans shall be designed, reviewed and approved in accordance with the following design standards.

- (1) **Building separation.** As part of its review of a proposed development plan, the Commission shall determine that all proposed structures are located to allow for: adequate light and air; ease of access and entry for vehicles, occupants and pedestrians; and safety from fire, flood and other safety hazards. All minimum building separations required by this chapter shall be maintained, unless specifically waived or modified by the Commission as part of the development plan approval.
- (2) **Yard and setback requirements, and height limitations.** All minimum yard and setback requirements and height limitations required by this chapter shall be maintained, unless specifically waived or modified by the Commission as part of the development plan approval.
- (3) **Sanitary sewer.** Complete sanitary sewer facilities shall be installed to serve the proposed development. The design, layout, and construction of the proposed facilities shall comply with all applicable policies, standards, and specifications of the Board of Public Works, City Utilities, and the City Water Pollution Control Department, or other appropriate regulatory agency.
- (4) **Water.** Complete water supply facilities shall be installed to serve the proposed development. The design, layout, and construction of the proposed facilities shall comply with all applicable policies, standards, and specifications of

the Board of Public Works, City Utilities, and the City Water Engineering Department, or other appropriate regulatory agency.

(5) **Storm water drainage.** Complete storm water drainage facilities shall be installed to serve the proposed development. The design, layout, and construction of the proposed facilities shall comply with all applicable policies, standards, and specifications of the Board of Public Works, City Utilities, and the City Stormwater Engineering Department, or other appropriate regulatory agency.

(6) **Street and outdoor site lighting.** Street lighting facilities shall be installed as necessary to serve the proposed development. Additional outdoor site lighting may also be provided as needed. The design, layout, and construction of the proposed street and other outdoor site lighting facilities shall comply with all applicable policies, standards, and specifications of the Board of Public Works, City Utilities, and the Street Lighting Department, or other appropriate regulatory agency.

(7) **Streets.** Adequate street facilities shall be installed as necessary to serve the proposed development. Proposed streets shall be constructed and maintained as private streets, unless otherwise required or permitted by the Board of Public Works and the Plan Commission. The design, layout, construction, dedication, and acceptance of any proposed public street shall comply with all applicable policies, standards, and specifications of the Board of Public Works, the City Street Engineering Department, or other appropriate regulatory agency.

(8) **Access and traffic management.** The design, layout, and construction of all access facilities, roadway improvements, internal traffic and circulation facilities, and other traffic management facilities shall comply with all applicable policies, standards, and specifications of the Board of Public Works, the City Street Engineering Department, the City Traffic Engineering Department, the City Right of Way Department or other appropriate regulatory agency. As part of its review of a proposed development plan, the Commission shall consider and determine if the development's access and traffic management proposals manage traffic in a manner that creates conditions favorable to health, safety, convenience, and the harmonious development of the community, and accomplishes the following:

- (a) that the design and location of proposed street and highway access points minimizes safety hazards and congestion;
- (b) that the capacity of adjacent streets and highways is sufficient to safely and efficiently accept traffic that will be generated by the new development; and
- (c) that the entrances, streets, and internal traffic circulation facilities in the development plan are compatible with existing and planned streets and adjacent developments.

(9) **Natural features and landscaping.**

- (a) **Natural features.** As part of its review of a proposed development plan, the Plan Commission shall consider whether the development is compatible with surrounding zoning and land uses. To help achieve compatibility and appropriate site design and development, the applicant or developer is encouraged to preserve as many existing trees and other natural site features as is practical. The location and nature of these site features shall be considered by the applicant or developer in the planning and design of the site development.
- (b) **Landscaping.** To help achieve compatibility and appropriate site design and development, landscaping shall be provided in accordance with the parking area landscaping requirements (§157.143) and the screening and buffering requirements (§157.122) unless specifically waived or modified by the Commission or its designated representative as part of the development plan approval.

- (c) Shade trees. Existing shade trees shall be retained or new trees planted along all public streets in accordance with the standards and specifications of the City.
- (10) **Recreation space and amenities.** Developed recreation space shall be provided to serve all proposed residential developments, to meet the recreation needs of the residents of the development. Recreation space shall be provided at a minimum standard of 750 square feet per dwelling unit, and shall be designed, provided and installed in accordance with the provisions of §155.025 (B), (C), and (D) of the City of Fort Wayne Subdivision Control Ordinance, and in compliance with all applicable policies, standards, and specifications of the Fort Wayne Department of Parks and Recreation. If the total required recreation space for the proposed development is less than 10,000 square feet, the Plan Commission may waive the recreation space requirement.
- (11) **Pedestrian circulation.**
- (a) Pedestrian walkways and circulation paths shall be provided to serve the proposed development. Sidewalks or other circulation paths shall be designed to allow for:
- (i) access from parking areas to individual buildings;
- (ii) access between individual buildings and/or uses within the development; and
- (iii) coordination with and connection to existing or proposed sidewalks or uses.
- (b) Public sidewalks shall be provided on both sides of any new public street(s) proposed to serve the development, unless specifically waived or modified by the Plan Commission as part of the development plan approval. The Commission and City staff may also require new sidewalks, or replacement of existing sidewalks along existing streets which abut the proposed development.
- (c) The Plan Commission may require the provision of sidewalks along any existing or proposed private streets within the proposed development.
- (d) The design and construction of all sidewalks shall comply with the applicable requirements of the Americans with Disabilities Act (ADA).
- (12) **Signage.** All proposed signage shall conform with the applicable provisions and requirements of the City of Fort Wayne Sign Ordinance (chapter 154 of the City Code). As part of its review and approval of a proposed development plan, the Commission or its designated representative may grant waivers to those signage provisions and requirements.
- (13) **Parking.** Adequate off-street parking facilities shall be provided to serve the proposed development according to the provisions and requirements of this chapter. The minimum number of parking spaces shall be provided, unless specifically waived as part of the development plan approval.
- (14) **Easements.** Easements shall be provided as necessary for utility lines, storm water drainage facilities, and other similar facilities and uses. Easements shall be designed and laid out so that adequate utility service and storm drainage can be provided, and proper continuity exists between areas, uses, structures, parcels, and developments. Easement widths and locations shall comply with all applicable policies, standards, and specifications of the Board of Public Works, City Utilities, or other applicable utility or regulatory agency.
- (15) **Other design and review standards.**

- (a) As part of its review of any proposed primary development plan, the Commission may require the preparation and submission of a traffic impact study and/or any other studies or information the Commission determines is necessary for proper consideration and review of the request.
- (b) Any proposal for a new shopping center in a SC District shall include a projected trade area study and analysis as part of the primary development plan submission.
- (c) Any site proposed for a new manufactured home park in a MR1 or MR2 District shall be at least five (5) acres in size.

(H) Plan Commission waiver of required design standards.

- (1) As noted in §157.120(G), the Plan Commission or its designated representative may waive or modify certain development plan design standards as part of its approval of a primary or secondary development plan. Such a waiver or modification may be granted provided that:
 - (a) the waiver or modification is in conformance with the purposes and intent of this chapter along with the goals, objectives, and policies of the City Comprehensive Plan;
 - (b) the Commission or its designated representative determines the applicant has submitted adequate evidence in support of the requested waiver or modification;
 - (c) the requested waiver or modification will be compatible with the immediate area, and will not be unduly detrimental to the use and value of the area adjacent to the property included in the request; and
 - (d) the failure to grant the requested waiver would result in practical difficulties in the use of the property for the proposed development.
- (2) The Plan Commission may grant waivers or modifications to the following development plan standards only as part of its approval of a primary development plan:
 - (a) building separation;
 - (b) yard and setback requirements;
 - (c) height limitations;
 - (c) recreation space and amenities;
 - (d) parking (minimum parking space requirements); and
 - (e) the 30,000 square foot maximum CM2 tenant space limitation.
- (3) The Plan Commission or its designated representative may grant waivers or modifications to the following development plan design standards as part of its approval of a primary or secondary development plan:
 - (a) landscaping;
 - (b) parking area screening and buffering;
 - (c) public sidewalks; and

(d) signage.

- (4) A decision by the Plan Commission's designated representative to deny a requested waiver may be appealed to the Plan Commission, in accordance with the Commission's rules.

(I) **Secondary development plan procedures.**

- (1) **Application.** Following Plan Commission approval of a primary development plan, the applicant may apply for secondary development plan approval. The application form must be completed and required plans submitted along with the appropriate filing fee within the time period of valid approval for the primary development plan. The application form for a secondary development plan approval shall be signed by the owner(s) of record of the real estate included in the development plan. The application may include all or a portion of the property contained in the approved primary development plan. The Commission shall adopt filing fees and other procedures for this process by rule.

- (2) **Secondary development plan submission requirements.** All development plans submitted for secondary approval shall contain the items listed below. Applications shall be accepted and reviewed only when all of the required information is submitted. The development plan shall be drawn at a scale of not less than one (1) inch equals 100 feet on a 24 by 36 inch sheet, unless the size of the proposed project requires a different scale or sheet size. The plan shall be prepared and certified by a licensed architect, engineer, or land surveyor. The following items must be included on the development plan:

- (a) date, north arrow, scale and proposed name of the development;
- (b) name, address, and phone numbers of the developer(s), and the land surveyor, architect or engineer who prepared the development plan;
- (c) existing and proposed structures within the development plan;
- (d) legal description of the parcel(s) included in the development plan and location and/or layout of property boundary lines and dimensions;
- (e) any proposed subdivisions of individual parcels, showing proposed parcel numbers and approximate dimensions, if applicable;
- (f) the existing and proposed public sanitary sewer, storm sewer, and water lines, showing all sizes;
- (g) the point of connection to existing sanitary sewer, storm sewer, and water facilities;
- (h) the existing contours at vertical intervals of two (2) feet or less, unless the slope of the property requires the use of a larger contour interval;
- (i) street light and outdoor site lighting locations;
- (j) existing streets, public ways, railroad or utility easements, adjacent to the development plan showing all widths and types;
- (k) the location of the floodplain of the regulatory flood, based on the Flood Insurance Rate Maps for Allen County, if applicable;

- (l) the location of any wetlands according to the National Wetland Inventory Maps, and other natural features such as woodland, streams, drainage ways, existing trees and significant site vegetation, and ponds, if applicable;
 - (m) off-street parking areas, service areas, loading areas, and points of access to public right-of-ways;
 - (n) dimensions showing the distances from the proposed structures and/or parking areas to property and right-of-way lines;
 - (o) a landscape plan which meets the requirements of §157.122 and §157.143;
 - (p) any common areas, including proposed recreation amenities;
 - (q) existing parks and/or recreation areas adjacent to the development plan;
 - (r) existing and proposed sidewalk locations and widths;
 - (s) the location, size, and type of existing and proposed signage;
 - (t) all existing or proposed easements, showing widths and types;
 - (u) areas to be used for the outdoor storage or display of materials, merchandise, machinery, or other similar items; and
 - (v) in addition to the development plan document, the following information shall be submitted:
 - (i) quantitative data for the proposed number and type of structures;
 - (ii) where applicable, quantitative data indicating the gross residential density and type of dwelling units;
 - (iii) statements identifying the intended means of assuring permanency, continuance and maintenance of all common areas or open/recreation spaces to be dedicated for use by residents/tenants of the development and/or the general public, where applicable; and
 - (iv) a copy of any proposed restrictive covenants.
- (3) **Secondary development plan engineering data.** In addition to the development plan documents, the applicant shall submit a complete set of final engineering plans which include the following information, in accordance with the applicable policies, standards and specifications as set forth in §157.120(G):
- (a) street plans, profiles, and cross-sections;
 - (b) entrance and access plans and details;
 - (c) sanitary sewer plans, profiles, and details;
 - (d) storm sewer and swale plans, profiles, and details;
 - (e) erosion control plans and details;
 - (f) stormwater detention or retention areas plans and details;

- (g) miscellaneous details and specifications including paving, site lighting, curbs, sidewalks, and landscaping, if applicable; and
- (h) water main plans and details.
- (4) **Secondary development plan review and approval.**
- (a) Review and approval. Secondary development plans shall be reviewed and approved by the Planning staff, in accordance with the procedures set forth in §157.121, (Site Plan Routing Review). However, nothing shall prohibit the Plan Commission from requiring Commission review and approval of any secondary development plan.
- (b) Conditional approval. The Planning staff and other reviewing departments may place conditions on its approval of a secondary development plan, if the conditions are reasonably necessary to satisfy the development requirements of this subchapter.
- (c) Findings. If the site plan routing review committee reviews and takes action on a secondary development plan, the Planning staff shall enter written findings, setting forth the reasons for its action on a secondary development plan request to be signed by a Zoning Enforcement Officer. If the Plan Commission reviews and takes action on a secondary development plan, the Commission shall enter written findings, setting forth the reasons for its action on a secondary development plan request to be signed by the Commission's secretary.
- (d) Appeal of decision. A decision of the Planning staff on a secondary development plan may be appealed to the Plan Commission, according to procedures established by rule of the Commission.
- (e) Time period for valid approval. Secondary approval of a development plan shall remain valid for a period of 24 months from the date of approval. Within this 24 month time period, the applicant, owner, or successor may request that an extension of the approval be granted by staff. However, the approval of any project which is under construction shall remain valid as long as construction continues to proceed with due diligence. If the construction has not proceeded with due diligence, or an extension of the 24 month time period has not been granted, then the secondary approval shall lapse and no longer be valid. The applicant, owner, or successor shall be required to submit a new secondary development plan for consideration in accordance with the applicable provisions of this chapter and the Plan Commission rules.
- (f) Certification and recordation. All approved secondary development plans shall be stamped approved and kept on file in the Planning Department. If the approved plan proposes the dedication of public right-of-way or utility easements, the development plan shall be certified and recorded as set forth for a secondary plat in §155.069 of the Subdivision Control Ordinance.
- (5) **Issuance of permits.** Prior to the issuance of an Improvement Location Permit for any use or structure in a project where a development plan is required, all of the following requirements shall be satisfied.
- (a) The Commission shall have granted primary approval of the development plan in accordance with the applicable provisions of this chapter and the Commission's rules, or the development plan requirements shall have been waived.
- (b) The Commission or Planning staff shall have granted secondary approval of the development plan in accordance with the applicable provisions of this chapter and the Commission's rules.
- (c) The applicant shall have met or adequately committed to meet all of the conditions of approval placed on the development plan.

- 1 (d) The applicant shall have installed or adequately committed to have installed all of the public improvements
2 and infrastructure required to serve the development.
- 3 (e) The applicant shall have recorded in the Allen County Recorder's Office all of the required documents, rights-
4 of-way, utility easements, plans, deed restrictions, restrictive covenants, written commitments, and any other
5 legal instruments required by the Commission or staff.
- 6 (6) **Amendments after primary approval.** Proposed amendments to an approved primary development plan prior to
7 the submittal of a secondary development plan shall be reviewed in accordance with the following:
- 8 (a) if a Zoning Enforcement Officer determines that the amendment does not constitute a substantial change to the
9 previously approved plan, the revised plan may be submitted with the application for a secondary development
10 plan; or
- 11 (b) if a Zoning Enforcement Officer determines that the amendment constitutes a substantial change to the
12 previously approved plan, the submission of a new primary development plan shall be required. The previous
13 submission shall be void once the new primary development plan is approved. The new primary development
14 plan shall require a new application and filing fee, and shall be reviewed under the provisions of this
15 subchapter.
- 16 (7) **Amendments after secondary development plan approval prior to issuance of the Improvement Location**
17 **Permit.** Proposed amendments to an approved secondary development plan prior to the issuance of the
18 Improvement Location Permit shall be reviewed in accordance with the following:
- 19 (a) if a Zoning Enforcement Officer determines that the amendment does not constitute a substantial change to the
20 previously approved plan, the revised plan may be submitted with the application for an Improvement
21 Location Permit and routed to other City departments as necessary; or
- 22 (b) if a Zoning Enforcement Officer determines that the amendment constitutes a substantial change to the
23 previously approved plan, the submission of a new secondary development plan shall be required. The
24 previous submission shall be void once the new secondary development plan is approved. The amended
25 secondary development plan shall require a new application and filing fee, and shall be reviewed under the
26 provisions of this subchapter; or
- 27 (c) if a Zoning Enforcement Officer determines that the amendment exceeds a substantial change and another
public hearing should be required, the applicant shall resubmit the revised plan as a new primary development
plan. The previous submissions shall be void once the amended primary plan is approved. The amended
primary development plan shall require a new application and filing fee, and shall be reviewed under the
provisions of this subchapter.
- (8) **Amendments after secondary development plan approval and the issuance of the Improvement Location**
Permit. A proposed amendment or addition to an approved secondary development plan where Improvement
Location Permits have been issued shall be reviewed in accordance with the following:
- (a) if a Zoning Enforcement Officer determines that the amendment does not constitute a substantial change to the
previously approved plan, the revised plan may be submitted with an application for an Improvement Location
Permit and routed to other City departments as necessary; or
- (b) if a Zoning Enforcement Officer determines that the amendment constitutes a substantial change to the
previously approved plan the submission of a new secondary development plan shall be required. The
previously issued Improvement Location Permit shall be revoked once the new secondary development plan is
approved. The previously approved development plan shall be void, and The amended secondary

development plan shall require a new application and filing fee, and shall be reviewed under the provisions of this subchapter; or

- (c) if a Zoning Enforcement Officer determines that the amendment exceeds a substantial change and another public hearing should be required, the applicant shall resubmit the revised plan as a new primary development plan. The previously issued Improvement Location Permit shall be revoked. Once the new primary development plan is approved the previous submission shall be void. The new primary development plan shall require a new application and filing fee and shall be reviewed under the provisions of this subchapter.

§157.121 SITE PLAN ROUTING REVIEW.

(A) **Purpose.** The purpose of this section is to:

- (1) allow for proper review of certain proposed residential, commercial, industrial, and other nonresidential projects;
- (2) establish procedures for the submission and review of a site plan routing; and
- (3) establish plan documentation and supporting information that must be submitted to allow for the review of a project.

(B) **Intent.** The intent of requiring site plan routing review is to promote development which has a positive impact on surrounding land uses and the overall community, by allowing City staff review and feedback on certain development proposals. This input may include comments and recommendations on the following issues:

- (1) the compatibility of the proposed development with surrounding zoning and land uses;
- (2) the availability, coordination, and adequacy of water, sanitary sewer, storm water drainage, and other utilities and/or facilities proposed to serve the development;
- (3) traffic and transportation safety, roadway capacity, and traffic congestion in the immediate vicinity of the proposed development site;
- (4) proposed entrance locations, street facilities, roadway improvements, and internal traffic circulation patterns;
- (5) proposed signage, pedestrian circulation facilities, recreation space and facilities, outdoor lighting, landscaping, buffering, and screening; and
- (6) the relationship between the design of the proposed development and public safety issues such as fire safety and crime prevention.

(C) **Projects requiring site plan routing review.** Any proposal for a new structure or an addition to an existing structure under the following categories, which does not require the submission of a development plan under the provisions of §157.120, requires submittal, review and approval through the site plan routing review process:

- (1) commercial structures;
- (2) industrial structures;
- (3) new individual multiple family three (3) or four (4) unit structures;
- (4) any other nonresidential structures not otherwise listed, including churches under 10,000 square feet, schools, and similar structures; and

(5) as part of its consideration and approval of a request for a contingent use, special use, or use variance, the Board of Zoning Appeals may require review and approval through the site plan routing review process.

(D) **Waiver of site plan routing review requirements.** A Zoning Enforcement Officer may waive the site plan routing review requirements if the proposed structure meets the following:

(1) detached nonresidential storage structures which:

(a) will not exceed 1,500 square feet in size;

(b) will not contain any water or sanitary sewer facilities, or require any additional access points;

(c) can be adequately served by existing storm drainage facilities; or

(2) attached or detached nonresidential uninhabited structures such as entrance areas, canopies, awnings, storage space, or similar structures.

(E) **Application Requirements.** All requests for site plan routing review shall be accompanied by a completed Improvement Location Permit application and the applicable permit fee. Requests must also be accompanied by the required number of complete sets of building plans and site plans, which shall be prepared and certified by a licensed engineer or architect. Submitted site plans must contain the following information; however, additional information may be requested by City staff on an individual basis in order to evaluate compliance with applicable regulations:

(1) date of plan preparation, north arrow, and scale;

(2) name and address of the developers;

(3) name and address of the registered architect or engineer who prepared the site plan;

(4) proposed name of the development;

(5) legal description of the parcel(s) included in the site plan;

(6) location and layout of property boundary lines, including dimensions and bearings if applicable;

(7) any proposed public streets, including proposed names and right-of-way widths;

(8) existing and proposed public sanitary sewer, storm sewer, and water lines, showing all sizes;

(9) the point of connection to existing sanitary sewer, storm sewer, and water facilities;

(10) all existing or proposed easements, showing widths and types;

(11) the existing contours at vertical intervals of two (2) feet or less, unless the slope of the property requires the use of a larger contour interval;

(12) the location of the floodplain of the regulatory flood, based on the Flood Insurance Rate Maps for Allen County, if applicable;

(13) existing and proposed structures within the site plan, including proposed building heights;

- (14) dimensions showing the distances from the proposed structures and/or parking areas to property and right-of-way lines;
- (15) the location, size, and type of existing and proposed signage;
- (16) a landscape plan which meets the requirements of §157.122 and §157.143;
- (17) the approximate location of any wetlands according to the National Wetland Inventory Maps, and other natural features such as woodland, streams, drainage ways, existing trees and significant site vegetation, and ponds, if applicable;
- (18) off-street parking areas; service areas; loading areas; and points of access to public right-of-ways, including construction details;
- (19) street and parking area light fixture locations;
- (20) existing and proposed sidewalk locations and widths;
- (21) areas to be used for the outdoor storage or display of materials, merchandise, machinery, or other similar items; and
- (22) the number of employees in the case of industrial uses.

(F) **“Foundation Only” Improvement Location Permit.** A request may be made for a “Foundation Only” Improvement Location Permit. As part of the application for the permit, the applicant shall pay the applicable permit fee and follow the site plan routing procedures outlined in this section. A second Improvement Location Permit must be obtained under a new application along with another permit fee in order to receive approval for construction of the remainder of the project.

(G) **Proposals containing multiple primary structures.** Site plan routing review proposals containing multiple primary structures shall be required to obtain a separate Improvement Location Permit under a separate application for each primary structure proposed.

(H) **Procedures for site plan routing review.**

- (1) **Filing deadline and meeting schedule.** Application submission deadlines and routing meeting dates shall be according to the schedule and times established by the Planning staff. Incomplete submissions shall not be accepted.
- (2) **Site plan review committee meeting.** Proposals submitted prior to the application deadline shall be reviewed and discussed at the scheduled routing meeting dates. A representative should attend the meeting in order to answer questions about the proposal and receive City staff comment information.
- (3) **Action taken by City staff.** Upon City staff review of a submitted site plan the following actions may be taken:
 - (a) additional information may be required;
 - (b) changes to the site plan may be recommended or required;
 - (c) the proposed site plan may be approved, with or without conditions; if no response is received from an applicable reviewing department/agency, the Planning staff may consider the lack of response to constitute approval of the plan; or

- (d) the proposed site plan may be denied, if it does not comply with applicable City standards, specifications or requirements.

(4) Improvement Location Permit.

- (a) After the site plan review committee meeting, it is the responsibility of the designated project representative to provide the individual City departments with any requested information or revised site plans.
- (b) Once all of the reviewing departments have sent approvals for the proposal to the Planning Department and the applicant has met or adequately committed to meet all of the conditions of approval, an Improvement Location Permit shall be issued for the project to the Allen County Building Department.

(5) Certificate of Compliance release.

- (a) Planning staff release. For new structures the applicant may be required to submit a certified survey to document that the structure(s) meet setback requirements, in addition to satisfying any other conditions of approval established by the Planning staff.
- (b) City staff release. During the site plan review committee meeting individual departments may choose to place a hold on the Certificate of Compliance. It is the designated project representative's responsibility to contact the individual departments and provide any requested information or schedule any required inspections. When all of the City departments have approved the release of the Certificate of Compliance, indicating compliance with city standards and specifications, and the Planning staff has granted final approval, the Planning Department will issue the Certificate to the Allen County Building Department.
- (c) Multiple tenant structures. In the case of new multiple tenant commercial, industrial, or other nonresidential structures, the Planning staff may issue a Certificate of Compliance for an individual tenant space at the request of the owner/applicant. The request for individual tenant space Certificates of Compliance must be made at the initial routing submittal. A tenant space Certificate of Compliance may be issued provided all applicable requirements pertaining to the tenant space have been resolved and the applicant has adequately met or committed to meet all other applicable conditions of approval pertaining to the overall project. Additional tenant spaces shall not be occupied until a separate Certificate of Compliance has been applied for and issued by the Planning staff.

§157.122 SCREENING AND BUFFERING.

(A) Purpose. The purpose of this section is to establish standards for providing adequate screening and buffering of structures, parking areas, driveways, land uses and other facilities, to carry out the following objectives:

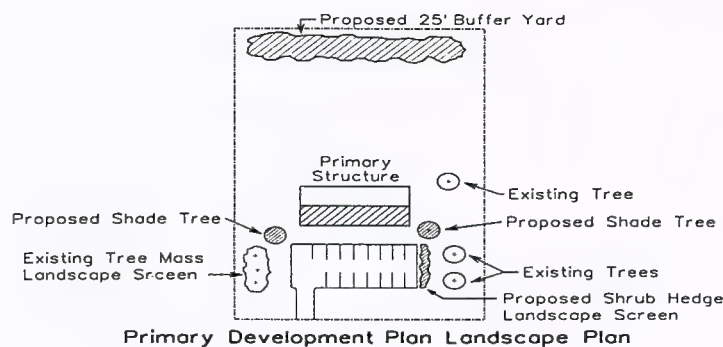
- (1) provide screening and buffering between structures, parking areas, land uses, and other facilities and adjacent uses, structures, public alleys, and roadways;
- (2) promote compatibility between different land uses;
- (3) assist in delineating separations of spaces, structures, uses, and activities on a site, or between adjacent sites;
- (4) conserve energy, and moderate the effects of sun and wind;
- (5) conserve or enhance property values;
- (6) decrease storm water run-off and erosion; and

(7) improve the appearance of individual developments and the overall area.

(B) **Landscape Plan.** A landscape plan shall be submitted as necessary to show conformance with this section. The plan shall be prepared by an individual knowledgeable of plant materials, landscape and site design, construction processes, and growing conditions in this region (USDA Zone 5).

(C) **Primary plat, primary development plan, and preliminary site plan routing landscape plan requirements.** A landscape plan shall be submitted as part of a request for approval of a primary plat or development plan, or preliminary site plan. A landscape plan shall not be required if the proposed project does not require landscaping based on the requirements set forth in this section and §157.143, or for improvement location permit requests which do not require site plan routing review. However, the Board of Zoning Appeals or Plan Commission may also require the submission of a landscape plan as a condition of approval of any request. The landscape plan shall include:

- (1) the approximate location of existing mature trees;
- (2) existing tree and shrub mass locations;
- (3) the location and size of proposed screening and buffering yard areas; and
- (4) preliminary tree and shrub locations and types (shade tree, evergreen tree, ornamental tree, large shrub, etc.) as necessary to meet the applicable provisions of this chapter and City Code.



(D) **Secondary plat, secondary development plan, and final site plan routing landscape plan requirements.** A landscape plan shall be submitted as part of a request for approval of a secondary plat or development plan, or final site plan. A landscape plan shall not be required if the proposed project does not require landscaping based on the requirements set forth in this section and §157.143. However, the Board of Zoning Appeals or Plan Commission may also require the submission of a landscape plan as a condition of approval of any request. The plan shall be prepared by an individual knowledgeable of plant materials, landscape and site design, construction processes, and growing conditions in this region (USDA Zone 5). The landscape plan shall include:

- (1) the location of existing mature trees to be preserved, and existing mature trees to be removed;
- (2) the approximate canopy lines of existing mature trees to be preserved;
- (3) the location of existing tree masses to be preserved, including proposals for protecting existing plants which are to remain from construction damage;
- (4) the location and width of required screening and buffering yard areas; and

- 1 (5) proposed tree, shrub, and other plant material locations, along with information indicating the quantity, size at
2 installation, and botanical name of the proposed plantings.

3 (E) **Screening and buffering requirements.**

- 4 (1) **General requirements.** All required screening, buffering, and landscaping shall be designed and installed to carry
5 out the purposes and objectives of this subchapter. In addition, the following general requirements shall apply.

- 6 (a) Existing vegetation. The preservation of existing trees, tree masses, shrubs, and shrub masses is encouraged
7 and should be done wherever such preservation is practical. Existing vegetation may be used to meet the
8 requirements of this chapter. To help ensure the survival of existing vegetation which is proposed to be
9 preserved, adequate provisions must be made to protect the trees, shrubs, or other vegetation during the
10 construction of the project.
- 11 (b) Location of screening and buffering. All required screening and buffering shall be provided on the same lot,
12 tract, or development parcel as the building, structure, or use for which the screening and buffering is required.
- 13 (c) Plant hardiness. All required screening, buffering, and landscaping shall consist of plantings hardy to this
14 region (USDA Zone 5). The use of native plant material or similar low-maintenance plant material is
15 recommended.
- 16 (d) All required screening and buffering shall be subject to the corner visibility limitations set forth in
17 §157.113(D)(3).
- 18 (e) In cases where the screening and buffering requirements can be adequately met by providing either fencing or
19 landscape plantings, the preferred option shall be landscape plantings.

- 20 (2) **Screening and buffering requirements.** Screening and buffering shall be provided as set forth in the table of
21 requirements and the code description table below, or as set forth in division (F) below.
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- 23
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SCREENING AND BUFFERING REQUIREMENT CODES*

Proposed Use	Adjacent Use or Zoning Classification						
	Residential zoning classification	Public alley right-of-way **	Public alley right-of-way ***	Public street right-of-way	Institutional or similar nonresidential use	Commercial use or zoning classification	Industrial use or zoning classification
Single or two family residential structure	None	None	None	None	None	None	None
Multiple family complex or structure	3	2	1	None	1	1	1
Manufactured home park	3	2	1	2	2	3	3
Institutional or other nonresidential use	3	2	1	None	None	None	None
Parking area, for other than single or two family use	3	3'	2	1	1	1	1
Commercial structure	3	3	2	None	1	None	None
Industrial structure	4	3	2	None	1	None	None

*See table below for code descriptions

** If adjacent to a residential zoning district

*** If not adjacent to a residential zoning district

CODE DESCRIPTIONS FOR SCREENING AND BUFFERING REQUIREMENTS

Screening/ buffering code	Requirement	Ultimate minimum height of screen/buffer	Minimum width of buffer yard	Required minimum coverage in buffer yard
1	Deciduous and/or evergreen shrubs	2-3'	5'	30% if screening a structure 75% if buffering a parking area
2	Deciduous and/or evergreen shrubs	3-4'	5'	50% if screening a structure 75% if buffering a parking area
3	Evergreen trees, or	6'	15'	50% if screening a structure 75% if buffering a parking area
	Mounding*, and/or	6'	20'	Continuous (mound)
	Solid fence and evergreen and/or deciduous shrubs	6'	10'	Continuous (fence) 30% (shrubs) if screening a structure 75% if buffering a parking area
4	Evergreen trees, or	8'	15'	50%
	Mounding* and deciduous and/or evergreen shrubs	8'	25'	Continuous (mound) 30% (shrubs)

*Any mounding used in meeting screening or buffering requirements shall be a minimum of 3' in height and the minimum width of the buffer yard shall be adequate to accommodate the height of the proposed mounding

1 (3) **Calculation of coverage.** In determining whether a proposed landscape screen or buffer meets the required range
2 of coverage, the Planning staff shall divide the total lineal feet of the buffer yard into the total lineal feet of the
continuous plantings provided.

3 (F) **Miscellaneous additional screening and buffering requirements.** Screening and buffering shall be provided for the
4 miscellaneous uses, structures, and facilities set forth below. The proposed screening and buffering shall be reviewed and
approved as necessary as part of any secondary development plan or site plan routing review.

5 (1) Refuse dumpsters. Landscape plantings or an opaque screen fence or solid wall shall be provided to adequately
6 screen all refuse dumpsters from public rights-of-way and adjacent properties.

7 (2) Drive through facilities. Landscape plantings shall be provided to adequately buffer drive through vehicle stacking
lanes and menu boards from public rights-of-way and adjacent properties.

8 (3) Outdoor storage. Landscape plantings or an opaque screen fence shall be provided to adequately screen outdoor
9 storage areas from public rights-of-way and any adjacent residential zoning districts.

10 (4) Off street loading and unloading areas. Landscape plantings shall be provided to buffer truck loading and unloading
areas from public rights-of-way and any adjacent residential zoning districts.

11 (5) Vehicle storage areas. Landscape plantings or an opaque screen fence shall be provided to screen any accessory
12 outdoor vehicle storage area (as set forth in §157.107(2)(d)) where over ten (10) vehicles are stored overnight.

13 (G) **Waiver of screening and buffering requirements.**

14 (1) The Plan Commission or its designated representative may waive or modify the screening and buffering
15 requirements as part of the review and approval of a primary or secondary development plan, in accordance with
§157.120(H).

16 (2) The Planning staff may waive or modify the screening and buffering requirements as part of the review and
17 approval of a site plan routing submission, upon a written request by the applicant. Such a waiver or modification
may be granted provided that:

18 (a) the waiver or modification is in conformance with the purpose of this subchapter;

19 (b) the staff determines that the applicant has submitted adequate documentation in support of the requested
waiver or modification;

20 (c) the staff determines the required screening and/or buffering is not necessary, based on the existing site or area
21 conditions or characteristics;

22 (d) the requested waiver or modification will not be unduly detrimental to the use and value of the area adjacent to
the property included in the request; and

23 (e) the requested waiver will improve the relationship between the site design of the proposed development and
24 public safety issues such as fire safety and crime prevention.

25 (3) A decision by the Plan Commission's designated representative to grant or deny a requested waiver or modification
26 of screening and buffering requirements as part of a secondary development may be appealed to the Plan
Commission, in accordance with the Commission's rules.

27 (H) **Installation, planting size, and maintenance requirements.**

- (1) All plant material required by the provisions of this section shall be properly installed in accordance with standard horticultural practices.
- (2) All plant material required by the provisions of this section shall meet the minimum sizes and spacing at installation as established in the Commission's rules.
- (3) All mounding installed to meet the provisions of this section shall be covered with grass or other acceptable ground cover, in order to prevent erosion.
- (4) All mounding installed to meet the provisions of this section shall be designed and installed to provide adequate storm water drainage to ensure that the mounding does not create ponding or other storm drainage problems on adjacent properties. The side slope of the mounding shall not exceed a slope of 35% to allow for adequate maintenance.
- (5) All plant material required by the provisions of this section shall be properly maintained in accordance with standard horticultural practices. Any required plant or other screening material which dies, is removed, or destroyed, shall be replaced with equivalent plant or screening material by the developer or subsequent owner. If necessary, the Planning staff shall determine what new plant or other screening material shall be adequate to replace the dead, removed, or destroyed plant or other screening material.

OFF-STREET PARKING

§157.140 PURPOSE.

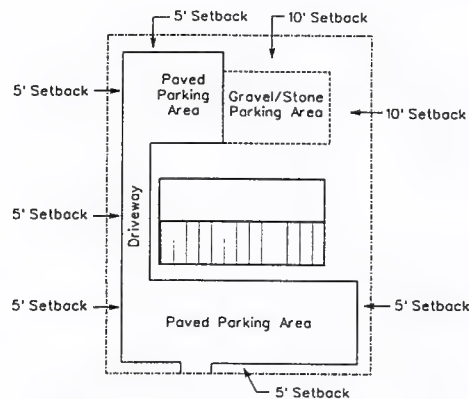
The purpose of this subchapter is to establish standards for the provision of adequate off-street parking facilities for permitted residential, commercial, industrial and other nonresidential uses. These parking standards shall apply to: any new building or use; an addition to an existing building; or to a new use of an existing building, lot, tract, or development parcel where the new use requires a greater number of parking spaces than the previous use (based on the table in §157.144).

§157.141 GENERAL REQUIREMENTS.

- (A) **Location of spaces.** All parking spaces required by this subchapter shall be provided on the same lot, tract or development parcel as the building, structure, or use for which the spaces are required.
- (B) **Multiple uses and/or buildings.** Where multiple uses exist in the same building or more than one building exists on the same lot, tract or development parcel, off-street parking requirements shall equal the sum of the requirements for the individual uses. Parking areas for multiple buildings may be provided collectively in one or more parking areas as long as the individual use requirements are met and the parking is provided on the same lot, tract or development parcel.
- (C) **Maintenance.** Off-street parking spaces and any required landscaping shall be provided and maintained by the property owner or other occupant of the property.
- (D) **Compliance with Americans with Disabilities Act.** The design and construction of all new off-street parking areas shall comply with the applicable requirements of the Americans with Disabilities Act (ADA).

§157.142 PARKING AREA IMPROVEMENT STANDARDS.

- (A) **Establishment of standards.** The Board of Public Works shall establish minimum standards and specifications for paving, surfacing, and drainage of all land used for off-street parking and all driveways serving parking areas, whether required by this subchapter or otherwise provided.
- (B) **Paving and drainage.** All land which is placed in use for off-street parking and all driveways serving parking, delivery, and loading areas, shall be paved and shall be drained with materials and in a manner which meets the current minimum standards and specifications for parking areas adopted by the Board of Public Works. However, in industrial zoning districts, parking areas which are provided in addition to the minimum number of spaces required as set forth in §157.144 shall not be required to be paved, but may have a gravel surface which meets the current minimum standards and specifications for parking areas adopted by the Board of Works. Also, residential uses which do not include public parking areas as defined in this chapter shall not be required to pave driveways and parking areas. However, the parking, storage, or display of motor vehicles on grass or other similar areas which do not have a paved or gravel surface shall not be permitted.
- (C) **Curbing.** All public parking areas shall have curbing or other acceptable elements around the perimeter of the parking area at a sufficient location to keep vehicles from overhanging or encroaching upon abutting properties, streets, alleys or sidewalks or landscape areas. Curbing shall also be used if necessary to facilitate drainage and to prevent the discharge of water onto adjacent properties.
- (D) **Location standards.** Any paved area used for off-street public or employee parking, including driveways or driving lanes, shall be located a minimum of five (5) feet from any property line except for driveways or driving lanes which provide direct access. Any gravel area, including driveways, used for off-street public or employee parking shall be located a minimum of ten (10) feet from any property line except for driveways or driving lanes which provide direct access. These location standards shall not apply to any single or two family residential driveway or parking area which does not meet the definition of "public parking area" as set forth in this chapter.



Parking Area Location Standards

- (E) **Accessibility.** All parking facilities provided pursuant to this subchapter shall be directly accessible from an improved public right-of-way or other approved access provisions.
- (F) **Lighting.** Any light fixtures used to illuminate off-street parking areas or driveways shall be installed on the same lot, tract, or development parcel as the parking facilities. Parking area lighting shall be designed, installed and maintained so as to reflect the light away from any adjoining residential district. Lighting shall also be designed to avoid glare onto any public street right-of-way.

§157.143 PARKING AREA LANDSCAPING REQUIREMENTS.

(A) **Purpose.** The purpose of this section is to establish standards for providing adequate landscaping in and adjacent to parking areas and driveways serving those parking areas, to carry out the following objectives:

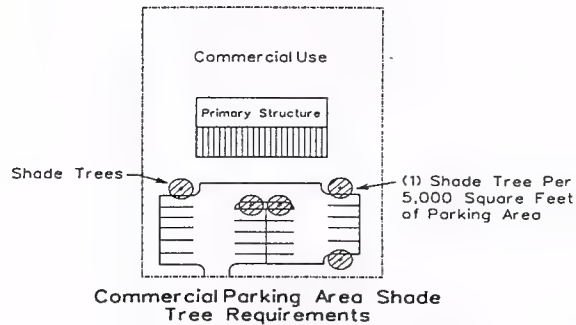
- (1) provide screening and buffering between parking areas and adjacent uses, structures, and public alleys and roadways;
- (2) provide shading for paved parking areas;
- (3) provide adequate green space and planting areas in and adjacent to parking areas;
- (4) decrease storm water run-off and erosion;
- (5) aid in directing the circulation of vehicles and pedestrians;
- (6) identify entrances and exits;
- (7) conserve or enhance property values;
- (8) improve the relationship between the site design of the proposed development and public safety issues such as fire safety and crime prevention; and
- (9) improve the appearance of parking areas and the overall area.

(B) **Landscape plan.** A landscape plan shall be submitted as necessary to show conformance with this section. The plan shall be prepared by an individual knowledgeable of plant materials, landscape and site design, construction processes, and growing conditions in this region (USDA Zone 5).

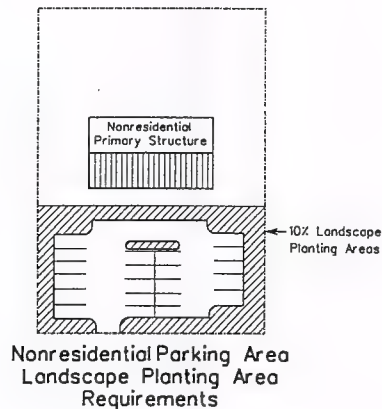
(C) **Landscape planting area and shade tree requirements.** The following parking area landscape planting area and shade tree requirements shall be calculated based on the gross square footage of the parking areas (not including driveways to and from the overall parking area).

- (1) All off-street public and employee parking areas shall require the provision and maintenance of deciduous shade trees of a variety hardy to this region, according to the requirements in the table below.

PARKING AREA SHADE TREE REQUIREMENTS	
Proposed Use	Minimum Parking Area Shade Tree Requirement
Multiple family or similar residential use	1 tree per 4,000 square feet of parking area
Commercial use	1 tree per 5,000 square feet of parking area
Industrial, institutional, or other nonresidential use	1 tree per 7,000 square feet of parking area



- (2) Each tree planting island shall contain at least 150 square feet of area per tree.
- (3) Landscape planting areas which equal at least 10% of the parking area square footage shall be provided for all off-street parking areas.



- (4) The provision, installation, planting size, and maintenance of all shade trees and landscaping required under this division shall conform to the applicable City and Plan Commission policies, standards, specifications, and rules.

(D) **Screening and buffering.** Screening and buffering of parking areas shall be provided to meet the requirements of §157.122.

§157.144 MINIMUM OFF-STREET PARKING REQUIREMENTS.

Off-street parking spaces shall be provided as set forth in the following table. If a proposed nonresidential use is not specified herein, a Zoning Enforcement Officer shall determine the minimum off-street parking requirement based on similar uses and/or the general standards included here. For uses which require off-street stacking spaces, additional stacking space may be required for traffic safety purposes, as part of the approval of a development plan, site plan routing review, Improvement Location Permit, or parking lot permit.

OFF-STREET PARKING -- MINIMUM NUMBER OF REQUIRED SPACES

Proposed Use	Space(s) Required	Measurement type (all square footages are based on gross floor area)
Appliance store	1	Per 500 sf
Assisted living facility	1	Every 3 units
Auditorium, or similar use	1 1	Per 4 seats if fixed seating is provided, or Per 120 sf without fixed seats
Automatic teller machine (walk-up or drive-up)	2 3	Per walk-up machine, or Stacking spaces per drive-up machine
Automobile repair, detail, body shop, or similar use	1 3	Per 400 sf of office/reception area, and Each service bay
Automobile maintenance (quick service)	1 3	Per 400 sf of office/reception area, and Stacking spaces per service bay
Automobile sales	1 1	Per 3000 sf of outdoor sales area, and Per 400 sf of indoor sales and office areas
Bank, credit union, or similar use	1 3	Per 400 sf, and Stacking spaces per drive-up window
Bar or Tavern	1	Per 200 sf
Barber/beauty shop	3	Each barber/styling chair
Bed and Breakfast	2 1	As required for a single family dwelling unit, and Per additional guest room
Bowling alley	4	Each bowling lane
Cabaret, adult	1	Per 200 sf
Car wash (full service)	6 1	Stacking spaces per washing lane Each employee
Car wash (self service or drive-through)	3 1	Stacking spaces per washing stall Each stall
Carpet store	1	Per 800 sf
Child/adult care center or preschool	1 1	Each employee, and Per five children or adults at full capacity
Church	1 1	Per 4 seats if fixed seating is provided, or Per 120 sf without fixed seats
Commercial greenhouse	1 1 1	Per 400 sf of retail/office area Per company owned vehicle Per 3000 sf of outdoor sales area
Commercial, other	1	Per 400 sf
Dental office	6 1	Each dentist Each employee

OFF-STREET PARKING -- MINIMUM NUMBER OF REQUIRED SPACES

Proposed Use	Space(s) Required	Measurement type (all square footages are based on gross floor area)
Department store	1	Per 200 sf for structures up to 10,000 sf
	1	Per 300 sf if structure size is from 10,000 to 30,000 sf
	1	Per 400 sf if the structure is over 30,000 sf
Doctor office	6	Each doctor
	1	Each employee
Educational institution not otherwise listed	1	Per 200 sf without fixed seating
	1	Per 4 seats if fixed seating is provided
Funeral home	1	Per 400 sf
Furniture store	1	Per 800 sf
Gas Station	3	Stacking spaces per gas pump
	1	Per 400 sf of retail area
Golf Course	4	Each golf hole
	1	Every 2 employees
Golf driving range	1.5	Each golf tee
Grocery store or similar use	1	Per 200 sf for structures up to 10,000 sf
	1	Per 300 sf if structure size is from 10,000 to 30,000 sf
	1	Per 400 sf if the structure is over 30,000 sf
Group residential facility	1	Every 2 beds and
	1	Each employee
Gymnasium	1	Per 4 seats with fixed seats, or
	1	Per 120 sf without fixed seats
Health club facility	1	Per 200 sf
Hospital, sanitarium or asylum	1	Per 600 sf
Hotel/Motel	1	Each guest room
	1	Each employee during the largest shift
Industrial uses	1	Every 2 employees during the largest shift or
	1	Per 800 sf, whichever is less, and
	1	Each company owned vehicle stored on site
Industrial multiple tenant/speculative tenant buildings	1	Per 1000 sf
Laundromat	1	Every 2 washing machines
Library, museum, or similar use	1	Per 400 sf
Manufactured home park	2	Each manufactured home
Manufactured home Type I and Type II	2	Each dwelling unit
Medical/dental clinic	6	Each doctor

OFF-STREET PARKING -- MINIMUM NUMBER OF REQUIRED SPACES

Proposed Use	Space(s) Required	Measurement type (all square footages are based on gross floor area)
	1	Each employee
Miniature golf course	1.5	Each hole
	1	Every 2 employees
Multiple family complexes	1.5	Each dwelling unit
Multiple family dwellings	1.5	Each dwelling unit
Nightclub	1	Per 200 sf
Office uses	1	Per 400 sf
Restaurant, fast food (with or without a drive through)	1	Per 100 sf
	6	Stacking spaces per drive through (if applicable)
Restaurant, full service/dine in (with or without a drive through)	1	Per 200 sf, including outdoor dining areas
	6	Stacking spaces per drive through (if applicable)
Retail plant nursery	1	Per 400 sf of retail/office area
	1	Per company owned vehicle
	1	Per 3000 sf of outdoor sales area
Retail service, other	1	Per 400 sf
Retirement facility	1	Every 3 units
School, Elementary	1	Each employee, and
	1	Per classroom
School, High School	1	Each employee, and
	6	Per classroom
School, Junior High	1	Each employee, and
	2.5	Per classroom
School, other	1	Per 200 sf without fixed seating
	1	Per 4 seats if fixed seating is provided
Self-storage (mini warehouse)	1	Every 10 storage units, and
	1	Every 2 employees
Shopping centers in SC1-4 Districts or other similar multiple tenant retail centers and buildings	5.5	Per 1000 sf
Single/two family residential	2	Each dwelling unit
Tanning or nail salon	1	Per 400 sf
Veterinary clinic	6	Each veterinarian
	1	Each employee
Warehouse/distribution facilities	1	Every 2 employees, or
	1	Per 2000 sf, whichever is less

NONCONFORMING STRUCTURES AND USES

§157.200 PURPOSE.

The purpose of this section is to set forth criteria, standards, and procedures for establishing, continuing, altering, amortizing, and discontinuing legal nonconforming uses, structures, and situations. This section is intended to provide for the continued use of legal nonconforming structures, uses and situations, along with reasonable maintenance and repairs, while also achieving the long term goals of either phasing out and discontinuing these uses over time or bringing nonconforming uses and structures into conformance with the standards, requirements, and purposes of this chapter where possible.

§157.201 CONTINUATION OF NONCONFORMING STRUCTURES OR USES.

(A) Nonconforming structures.

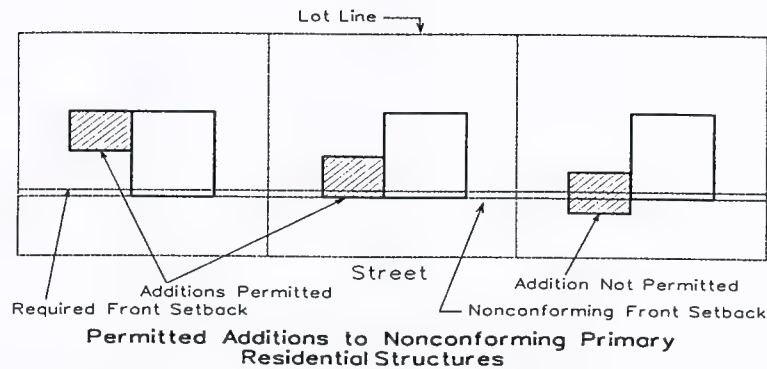
(1) Continuation.

- (a) A nonconforming structure which legally existed as of March 1, 1955, or which subsequently becomes nonconforming as a result of an amendment to this chapter, shall be permitted to continue.
- (b) A detached residential accessory structure which becomes a nonconforming structure due to the demolition or other removal of the primary residential structure shall be permitted to continue. However, the failure to construct a new primary residential structure on the same lot, tract, or development parcel within twelve (12) months of the removal of the primary structure shall be construed as an intent to abandon the accessory structure. Enforcement proceedings as provided in this chapter may be initiated after the expiration of the twelve month period.

- (2) **Maintenance and repairs permitted.** A nonconforming structure which legally existed as of March 1, 1955, or which becomes nonconforming as a result of an amendment to this chapter, may be maintained and repaired, except as otherwise provided in this section.

(3) Additions, enlargements or moving.

- (a) A structure which does not conform to the height limitation of the zoning district in which it is located may be added to or enlarged, provided the addition or enlargement conforms to the height limitation.
- (b) A nonconforming structure shall not be moved in whole or in part to another location on the same lot or onto another lot unless the entire structure is made to conform to all of the requirements of the district in which it is located.
- (c) A primary residential structure which conforms to the permitted use requirements of this chapter but is nonconforming with regard to front or rear setback requirements may be added to or enlarged, provided that the nonconforming front or rear yard dimension is not decreased.



(d) A primary nonresidential structure which conforms to the permitted use requirements of this chapter but is nonconforming with regard to front or rear setback requirements may be added to or enlarged on a one time basis of up to 50% of the square footage of the existing structure, provided that the nonconforming front or rear yard dimension is not decreased.

(4) **Documentation.** An applicant or owner claiming the existence of a nonconforming structure shall bear the burden of supplying a Zoning Enforcement Officer with adequate documentation verifying that the structure is a legal nonconforming structure.

(B) Nonconforming uses.

(1) **Continuation.** Except as otherwise provided in this chapter, a nonconforming use lawfully existing as of March 1, 1955, or which subsequently becomes nonconforming as a result of an amendment to this chapter, may be continued.

(2) Expansion prohibited.

(a) A structure used for a nonconforming use shall not be added to or enlarged in any manner unless the structure, including the addition or enlargement, is brought into conformance with the permitted use and setback requirements of the district in which it is located. However, a single family, two family, or attached single family residential structure, located in a zoning district which does not permit single family uses, may be added to or enlarged, provided the addition conforms to all applicable residential setback requirements.

(b) A nonconforming use of a portion of a structure shall not be expanded or extended into any other portion of the structure.

(c) A nonconforming use on a portion of a lot, tract or development parcel shall not be expanded or extended into any other portion of the lot, tract or development parcel. However, an agricultural operation which existed legally under the requirements of the Allen County Zoning Ordinance, and then was annexed into the City of Fort Wayne, shall be permitted on any part of the original lot, tract or development parcel, provided the intensity of the agricultural operation is not increased.

(C) Other nonconforming situations. The following standards, provisions and exclusions shall apply:

(1) **Signs.** Nonconforming signs shall be reviewed and determinations made based on the provisions of §154.80 of the Sign Ordinance.

(2) **Fences.** Fences which are legal-nonconforming with regard to location on the lot may be maintained and repaired as necessary. Such a fence may also be replaced, provided the, location and type of fence remains the same and the height is not increased. However, in the event of a fence containing barbed wire, razor wire or other harmful material, the replacement of that part of the fence shall only be permitted in accordance with the applicable current

requirements of the zoning district where the fence is located. Any person proposing to replace such a nonconforming fence shall submit adequate documentation as part of the application for the Improvement Location Permit for the fence verifying the current location, height and fencing material to a Zoning Enforcement Officer. The replacement fence shall conform to all other applicable provisions of this chapter. This exclusion shall not apply to a proposal to replace any existing fence located within a required front yard.

(3) **Parking areas.** Parking areas which do not conform to the improvement and/or landscaping standards of §157.142 and §157.143, or the screening and buffering standards of §157.122, may continue to be used. Any proposed addition to or expansion of such a parking area shall be required to conform to the current applicable requirements of the parking requirements section including the improvement and landscaping standards and the screening and buffering standards. In the event that the proposed expansion constitutes an increase of over 50% of the area of the existing parking lot (excluding the area of driveways to and from the lot), then the entire parking area shall be brought into compliance with the applicable improvement, landscaping, and screening and buffering requirements. The resurfacing, restriping, or similar maintenance of existing parking area shall not be considered an addition or expansion.

(4) **Recorded lots.** Any lot established by legally recorded plat or deed as of March 1, 1955 which does not meet the minimum size requirements of this chapter may still be used for any use permitted in the zoning district in which the lot is located.

(5) **Manufactured home parks.** Any legally existing manufactured home park where the lots do not meet the minimum lot sizes as set forth in §157.108, or where the units do not meet the minimum setback requirements as set forth in §157.109, may continue to be used provided the following requirements are met:

(1) the number of lots is not increased; and

(2) all other applicable state and local health, safety, building, and fire codes are met.

A Zoning Enforcement Officer may require the owner of such a park to submit adequate documentation verifying the status of the park, along with a survey or site plan showing the layout of the park, including lot locations and sizes.

§157.202 AMORTIZATION OF NONCONFORMING USES OR STRUCTURES.

(A) Discontinuation of use.

(1) Whenever a nonconforming use has been discontinued for a period of 12 months or more, the discontinuance shall be considered as an intent to abandon the use. Any future use of the property shall conform to the provisions of this chapter.

(2) In case of a detached residential accessory structure which becomes a nonconforming structure and use due to the demolition or other removal of the primary residential structure on the same lot, tract, or development parcel within twelve (12) months of the removal of the primary structure shall be construed as an intent to abandon the accessory structure and use. Enforcement proceedings as provided in this chapter may be initiated after the expiration of the twelve (12) month period.

(B) **Rebuilding and/or repair.** A nonconforming structure damaged by fire or other cause to the extent that its reconstruction or restoration will cost more than the total true tax value as stated on the property owners property record

card located in the applicable Township Assessor's office. The damaged nonconforming structure shall only be repaired or rebuilt in conformance with the provisions of this chapter.

§ 157.203 NONCONFORMANCE DUE TO RECLASSIFICATION.

The provisions of this subchapter shall also apply to structures and uses which become nonconforming due to any zoning reclassification, annexation or other inclusion pursuant to this chapter.

ADMINISTRATION AND ENFORCEMENT

§157.220 PURPOSE.

The purpose of this section is to:

- (A) provide for the administration and enforcement of the provisions of this chapter;
- (B) set forth general standards, procedures, and requirements for the review, consideration, and issuance of Improvement Location Permits and Certificates of Compliance; and
- (C) establish standards, procedures, and requirements for violations and penalties.

§157.221 ZONING ENFORCEMENT OFFICER.

A Zoning Enforcement Officer shall be responsible for:

- (A) making all determinations, interpretations, and decisions necessary to carry out the provisions and requirements of this chapter;
- (B) determining if a violation of this chapter exists, and how the provisions and requirements of this chapter shall be applied and enforced (in conjunction with the Department of Neighborhood Code Enforcement); and
- (C) issuing, or causing to be issued, all Improvement Location Permits and Certificates of Compliance required under this chapter.

§157.222 FEES.

In accordance with IC 36-7-4-411, the Plan Commission shall establish a schedule of fees to defray the administrative costs connected with:

- (A) processing and hearing administrative appeals and petitions for rezoning, special exceptions, special uses, contingent uses and variances;
- (B) issuing permits; and
- (C) other actions or activities taken in accordance with the provisions of IC Title 36.

1 **§157.223 IMPROVEMENT LOCATION PERMIT.**

2 **(A) General Provisions.**

- 3 (1) No building or structure shall be erected, constructed, reconstructed, enlarged, or moved prior to the issuance of an
4 Improvement Location Permit.
- 5 (2) No Improvement Location Permit shall be issued for a proposal to erect, construct, reconstruct, enlarge, or move a
6 building or structure, unless the proposal conforms with the provisions and requirements of this chapter.
- 7 (3) If a development proposal or permit request requires the approval of a development plan or a site plan routing
8 review, no Improvement Location Permit shall be issued prior to the completion of the applicable review and
9 approval process.

10 **(B) Application and filing fee.** All applications for Improvement Location Permits shall be submitted on forms provided by
11 The Planning staff, and accompanied by the required filing fee as established by the Plan Commission. The applicant
12 shall also submit site plans and any additional information necessary to allow a Zoning Enforcement Officer to determine
13 whether the proposed construction will comply with the provisions of this chapter. As part of the application, a Zoning
14 Enforcement Officer may also require the submission of a plot plan or certified land survey. A Zoning Enforcement
15 Officer may defer action on the review and approval of any incomplete application.

16 **(C) Permit Requirements.**

- 17 (1) An improvement location permit shall be required for the construction, reconstruction, enlargement, or relocation of
18 any building or structure, unless specifically excluded by this chapter.
- 19 (2) In the event the proposed construction, reconstruction, enlargement, or relocation requires the approval of a
20 subdivision plat, development plan, or site plan routing review, that approval shall have been granted, and all
21 conditions of approval satisfied prior to the approval and issuance of any improvement location permit(s).
- 22 (3) An improvement location permit shall not be required for the following:
- 23 (a) patios, sidewalks, and similar construction, provided no foundations are proposed;
- 24 (b) retaining walls;
- 25 (c) television aerials;
- 26 (d) utility lines, poles, and supports;
- 27 (e) public and private site lighting facilities, poles, and supports; and
- (f) signs which do not require a permit as listed in chapter 154 (Sign Ordinance).

(D) Issuance of permit.

- (1) Complete permit applications shall be promptly reviewed by a Zoning Enforcement Officer. If the proposed
construction is in compliance with the provisions of this chapter, the permit shall be issued.
- (a) If the proposed construction requires a permit from the Allen County Building Department then the
Improvement Location Permit shall be sent by the Planning staff to the Building Department.

(b) If the proposed construction does not require a permit from the Allen County Building Department, then the Improvement Location Permit shall be sent directly to the applicant.

(c) A copy of the Improvement Location Permit shall be kept on the project site during the construction process.

(2) If the proposed construction is not in compliance with the provisions of this chapter, a Zoning Enforcement Officer shall not approve the application, and shall notify the applicant in writing of the reason(s) why the permit cannot be approved.

(a) If the applicant amends the application to bring it into full compliance with the provisions of this chapter, then a Zoning Enforcement Officer shall approve and issue the permit.

(b) If the application cannot be amended to bring it into full compliance, a Zoning Enforcement Officer shall defer action on the request pending a final decision by the applicant. If a variance is not obtained, or a requested variance is denied by the Board of Zoning Appeals or Hearing Officer, then the permit application shall be denied. The applicant may also withdraw the permit application.

(3) As part of the review and approval of any Improvement Location Permit, a Zoning Enforcement may place conditions on the permit. If conditions are placed on a permit, those conditions must be satisfied or adequately addressed prior to the issuance of a Certificate of Compliance for the project or use.

(E) **Commencement and continuation of work.** Work shall begin on any construction project for which an Improvement Location Permit has been issued shall begin within 60 days of the date of the issuance of the permit. Work shall continue with due diligence until the project is completed.

(F) **Compliance with approved plans.** All work shall proceed in accordance with the plan(s), specifications, and other information approved as part of the permit application.

(G) **Amendments and modifications.**

(1) After the Improvement Location Permit has been issued, minor amendments involving the location, design, or layout of a proposed building or structure may be approved by a Zoning Enforcement Officer. Such an amendment, if approved, shall not require another Improvement Location Permit application.

(2) After the Improvement Location Permit has been issued the approved plan(s) shall not be amended to include new items such as accessory structures, decks, further additions, or other similar changes. Such an amendment shall require another Improvement Location Permit application.

(3) An approved Improvement Location Permit may not be applied or transferred to another construction project or site.

(4) An approved Improvement Location Permit may not be applied or transferred to a different applicant.

(H) **Validity of permit.**

(1) Any approved Improvement Location Permit may be revoked and declared invalid by a Zoning Enforcement Officer in the following situations:

(a) if work on the construction project is not commenced and continued in accordance with the provisions of this subchapter; or

(b) if work on the construction project is not proceeding in conformance with the approved plan(s), specifications, and other information approved as part of the permit application; or

(c) if work on the construction project is not in compliance with the provisions of this chapter.

(2) Notice of non-compliance. If a Zoning Enforcement Officer determines that any of the situations listed in division (1) above exists, the Zoning Enforcement Officer shall notify the applicant, specify the areas of non-compliance, and establish a time frame for the work to be brought into full compliance. A Zoning Enforcement Officer may also issue a stop work order (in conjunction with the Department of Neighborhood Code Enforcement) to ensure that no additional work will be done on the project.

(3) Revocation of permit. If the work on the project is not brought into full compliance within the time frame specified by a Zoning Enforcement Officer, a stop work order shall be issued (if one has not been previously issued), and the previously issued Improvement Location Permit shall be revoked. In a case where work on the project has not begun within the required 60 days, a stop work order shall not be required, but the permit may still be revoked. A new application, filing fee, review, and approval shall be required to continue the project.

§157.224 CERTIFICATES OF COMPLIANCE.

(A) **Request for Certificate of Compliance.** No occupancy or use of a building, structure, or site shall take place prior to the issuance of a Certificate of Compliance for the building, structure, or use. The Planning staff shall review all requests for Certificates of Compliance. Upon the completion of any structure erection, construction, reconstruction, enlargement, addition, or other construction project, the applicant shall contact the Planning staff and request the issuance of the Certificate of Compliance. In the case of nonresidential interior renovation projects, or nonresidential change of use, the applicant shall apply for a Certificate of Compliance on forms provided by the Planning staff, and pay the applicable filing fee.

(B) **Action taken upon review of a request for Certificate of Compliance.**

(1) If the building, structure, construction project, or use is in full compliance with the requirements of this chapter, the requested Certificate of Compliance shall be issued to the Allen County Building Department.

(2) If the Certificate of Compliance cannot be issued, the Planning staff shall advise the applicant of the reason(s) the compliance cannot be issued. It shall be the applicant's or the designated project representative's responsibility to resolve all outstanding issues, provide any requested information, or schedule any required inspections. The requested Certificate of Compliance shall not be issued until all outstanding issues are adequately addressed.

§157.225 ENFORCEMENT OF PROVISIONS AND REQUIREMENTS.

(A) **Designated enforcement officials.** The Plan Commission, Board of Zoning Appeals, Zoning Enforcement Officer, Planning staff, and Department of Neighborhood Code Enforcement are designated and empowered to enforce the provisions and requirements of this chapter and chapters 154 and 155 of City Code. The enforcement shall be carried out as set forth in this chapter, City Code, and by rule in accordance with the provisions and powers of this chapter and IC 36-7-4.

(B) **Applicability to other departments and entities.** All departments, officials, and employees with the authority to issue licenses or permits within the Planning jurisdiction of the City shall do so only in conformance with the applicable provisions of this chapter and chapters 154 and 155 of City Code. Any permit or license issued by another department within the Planning jurisdiction which is in conflict with the provisions of this chapter, or chapters 154 and 155 of City Code, shall be invalid and shall be considered void.

1 §157.226 PENALTIES.

2 (A) Stop work order.

- 3 (1) The Plan Commission, Board of Zoning Appeals, Zoning Enforcement Officer, or Department of Neighborhood
4 Code Enforcement shall have the authority to issue an order for work on any building, structure, lot, or development
5 parcel to be stopped, if the work is in violation of this chapter, or chapters 154 and 155 of City Code.
- 6 (2) Such a decision to issue a stop work order may be appealed to the Board of Zoning Appeals, in accordance with the
7 provisions of this chapter and the Board's rules.
- 8 (3) The stop work order shall remain in effect until it is removed, rescinded, or revoked by the Board.
- 9 (4) A violation of a stop work order shall be considered a violation of this chapter.

10 (B) **Misdemeanor violations.** Any person whether as principal, agent, owner, lessee, tenant, contractor, architect, engineer
11 or other entity who commits a violation of this chapter, or the City Sign or Subdivision Control Ordinance, may be
12 prosecuted as set forth in this chapter in Superior Court of Allen County, Indiana Misdemeanor and Traffic Division, for
13 such a violation. Any such violation shall be subject to a fine of up to \$2,500.00 for each offense. Each calendar day of
14 the existence of a violation may be considered as a separate offense.

15 (C) **Injunctive relief, abatement.** The individual(s) or entities designated in this chapter may bring action for an injunction
16 in the Circuit or Superior Court of Allen County, Indiana to enjoin any person whether as principal, agent, owner, lessee,
17 tenant, contractor, architect, engineer or other entity from violating, or continuing to violate any provision of this chapter,
18 or the City Sign or Subdivision Control Ordinance, and/or cause the violation to be resolved, removed, or abated. Such
19 an action may also be initiated by any property owner damaged by the violation.

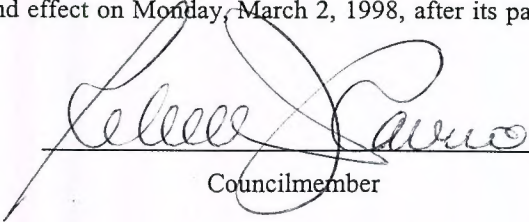
20 (D) **Injunctive relief, removal of structure.** The individual(s) or entities designated in this chapter may bring action in the
21 Circuit or Superior Court of Allen County, Indiana for a mandatory injunction requiring the removal of a building,
22 structure, sign, fence, and/or addition/enlargement to an existing structure erected or constructed in violation of this
23 chapter.

24 (E) **Payment of Costs.** Any person whether as principal, agent, owner, lessee, tenant, contractor, architect, engineer or other
25 entity found to be in violation of this chapter, or the City Sign or Subdivision Control Ordinance, as a result of any
26 enforcement action shall be responsible to pay all applicable attorney fees, court costs, and other costs and expenses
27 incurred in connection with the prosecution of the enforcement action.


1 **SECTION 4.** That the existing zoning districts of the City of Fort Wayne are hereby converted into new district designations
2 as follows:

ZONING DISTRICT CONVERSION CHART	
Old District	New District
None	AR - Low Intensity Residential
R1 - One-Family Residence District	R1 - Single Family Residential
R2 - Two-Family Residence District	R2 - Attached Single Family and Two Family Residential
R3 - Multiple-Family Residence District	R3 - Multiple Family Residential
RA and RB - Residence Districts A & B	RP - Planned Residential
None	MR1 - Manufactured Residential Subdivision
MHP - Mobile Home Park District	MR2 - Manufactured Home Park
B1A and B1B - Limited Business Districts A & B	CM2- Limited Retail and Commercial
B2A - Neighborhood Shopping Center	SC1 - Neighborhood Shopping Center
B2B - Community Shopping Center	SC2 - Community Shopping Center
B2C - Metropolitan Shopping Center	SC3 - Metropolitan Shopping Center
B2D - Regional Shopping Center	SC4 - Regional Shopping Center
B3A - General Business District A (downtown)	CM5 - Central Business District
B3B - General Business District B	CM3 - General Commercial
B4 - Roadside Business District	CM4 - Intensive Commercial
M1 - Light Industrial District	IN1 - Limited Industrial
M2 - General Industrial District	IN2 - General Industrial
M3 - Heavy Industrial District	IN3 - Heavy Industrial
POD - Planned Office District	CM1 - Professional Offices and Personal Services
PUD - Planned Unit Development District	Deleted

19 **SECTION 5.** That this ordinance shall be in full force and effect on Monday, March 2, 1998, after its passage and approval
20 by the Mayor.

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22
23
24
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26
27

Councilmember

APPROVED AS TO FORM AND LEGALITY:


J. TIMOTHY MCCAULAY, CITY ATTORNEY

Read the first time in full and on motion by Parnee,
and duly adopted, read the second time by title and referred to the Committee on
Regulations, (and the City Plan Commission for recommendation)
and Public Hearing to be held after due legal notice, at the Common Council Conference
Room 128, City-County Building, Fort Wayne, Indiana, on _____,
the _____ day of _____, 19____, at _____
o'clock _____ M., E.S.T.

DATED: 11-25-97

Sandra E. Kennedy
SANDRA E. KENNEDY, CITY CLERK

Read the third time in full and on motion by Parnee,
and duly adopted, placed on its passage. PASSED
by the following vote:

	AYES	NAYS	ABSTAINED	ABSENT
TOTAL VOTES	<u>9</u>			
BENDER	<u>✓</u>			
CRAWFORD	<u>✓</u>			
EDMONDS	<u>✓</u>			
HALL	<u>✓</u>			
HAYHURST	<u>✓</u>			
HENRY	<u>✓</u>			
LUNSEY	<u>✓</u>			
RAVINE	<u>✓</u>			
SCHMIDT	<u>✓</u>			

DATED: 12-9-97

Sandra E. Kennedy
SANDRA E. KENNEDY, CITY CLERK

Passed and adopted by the Common Council of the City of Fort Wayne, Indiana,
as (ANNEXATION) _____ (APPROPRIATION) _____ (GENERAL) _____ (SPECIAL) _____

(ZONING) _____ ORDINANCE _____ RESOLUTION NO. 5-16-97
on the 9th day of December, 1997

ATTEST: Sandra E. Kennedy SEAL Thomas P. Henry
SANDRA E. KENNEDY, CITY CLERK PRESIDING OFFICER

Presented by me to the Mayor of the City of Fort Wayne, Indiana, on the
10th day of December, 1997
at the hour of 1:20 o'clock P. M., E.S.T.

Sandra E. Kennedy
SANDRA E. KENNEDY, CITY CLERK

Approved and signed by me this 14th day
of December, 1997, at the hour of 1:00
o'clock P. M., E.S.T.

Paul Helmke
PAUL HELMKE, MAYOR



MEMORANDUM

B-97-11-10

TO: Common Council members

FROM: Pat Fahey, Senior Planner *P.F.*
City Planning Department

RE: Proposed City Zoning Ordinance amendment

DATE: November 19, 1997

Attached is a copy of the next proposed Zoning Ordinance amendment. This is the amendment that we have previously given you a staff summary for, and have met and discussed with a number of you. As you may recall, the Planning staff has been working on this amendment since the middle of last year; since the completion of the draft of the amendment earlier this year, staff has met with a number of different groups and individuals, including representatives of the four Area Partnerships, the Fort Wayne Association of Realtors, representatives from a number of City Departments, representatives of a number of area engineering, architecture, and contracting firms, and several local attorneys. A number of revisions were made to the draft based on the input received from those meetings, along with meetings with the members of the Plan Commission.

The Plan Commission held three public hearings on the amendment, to allow additional opportunity for public comment; the draft was also incorporated into and was available for review on the City's Web site, and at the City Planning Department office. The Plan Commission recommended approval of the request at its October business meeting.

It is our intent that this amendment be discussed at the December 2, 1997 City Council meeting. We will be making a brief presentation to you at that time. We would hope that Council could consider acting on the amendment at the December 9 meeting. We would propose that this amendment be effective as of March 2, 1998.

Thank you for your review of this information; please feel free to call Gary Stair or me at 427-1129 if you have any questions.

BILL NO. G-97-11-10

REPORT OF THE COMMITTEE ON REGULATIONS

REBECCA J. RAVINE - THOMAS E. HAYHURST - CO-CHAIR
ALL COUNCIL MEMBERS

WE, YOUR COMMITTEE ON REGULATIONS XXXXXXXXXX TO WHOM WAS
REFERRED AN (ORDINANCE) (~~RESOLUTION~~) amending the City of
Fort Wayne Zoning Ordinance (Chapter 157 of the City Code of Ordinances)

HAVE HAD SAID (ORDINANCE) (~~RESOLUTION~~) UNDER CONSIDERATION
AND BEG LEAVE TO REPORT BACK TO THE COMMON COUNCIL THAT SAID
(ORDINANCE) (~~RESOLUTION~~)

DO PASS

DO NOT PASS

ABSTAIN

NO REC

<u>Thomas H.</u>			
<u>Martin A. Bunch</u>			
<u>Debbie Taylor</u>			
<u>DJ Schmitt</u>			
<u>John W. Gandy</u>			
<u>Debbie Taylor</u>			
<u>Delia R. Edmonds</u>			

DATED: 12-9-97.

Sandra E. Kennedy
City Clerk